

**Regulation inside Government:
Assessing the de facto Independence of the
Greek Constitutional Independent Authorities
from Public Administration**

Thesis

presented to the Faculty of Arts

of

the University of Zurich

for the degree of Doctor of Philosophy

by

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from

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**Accepted in the fall semester 2012 on the recommendation of
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Zurich, 2012

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1. INTRODUCTION

1.1 Regulation inside government: a definition for an almost unexplored field of research

The dissertation pertains to the literature on regulation inside government. Public administration as field of regulation has not been systematically studied in a national or cross-national perspective by scholars, whereas it is characterised by particularities that makes it distinct from business regulation. Following Hood's et al. definition (1999), regulating government refers to processes where government regulates itself beyond the two classical primary regulators, i.e., the courts, and the elected members of the legislature. More specifically, the so-called secondary regulation is effected by public bodies operating at arm's-length from the direct line of command and takes the form of a steering or control system – in a cybernetic perspective - that combines standard setting (the “director” element), information-gathering (the “detector” element), and behaviour modification (the “effector” element). Three features of regulation inside government can be identified and must all be present (Hood et al., 1999):

- (i) “one public bureaucracy in the role of an overseer aiming to shape the activities of another;
- (ii) an organisational separation between the “regulating” bureaucracy and the “regulatee”, with the regulator outside the direct line of command (this feature distinguishes intra-organisational controls from arm's-length oversight by another organisation);
- (iii) some official “mandate” for the regulator organization to scrutinize the behaviour of the “regulatee” and seek to change it”.

Regulation inside government is carried out by organisations, a typology of which is suggested by Christopher Hood (Hood et al., 2004). These bodies are classified into seven different types: “i) international public overseers (bodies monitoring treaty obligations on torture and other human rights issues), ii) agents of legislators (auditors or Special Prosecutor), iii) independent or semi-independent grievance handlers, iv) officers or bodies relatively independent both of the legislature and the regular executive structure (independent commissions against corruption), v) arm's-length monitoring and standard-setting units within the executive government structure, vi) bodies overseeing public and private sector organizations alike (regulators of data privacy), vii) various private or independent overseers of government (private audit firms auditing public bodies, Transparency International)”.

1.2 Assessing the de facto independence of the Greek constitutional independent authorities regulating public administration

It has been argued that the complexity of social and economic phenomena, the need to protect human rights, and the public interest in general led to the delegation of policy decision-making powers “to institutions, which by design, are not directly accountable to voters or to their elected representatives, in other words, delegation to

*non-majoritarian institutions*¹” (Majone, 1996). Legitimising political action through the detachment of a significant part of the governmental activity from the traditional command-and-control techniques of government bureaucracy gave rise to the so-called regulatory state that runs parallel to the administrative state. A depoliticised bureaucracy based on specialist expertise becomes the main feature of the new institutional apparatus. The diffusion of specialised agencies covering a wide range of sectors², and under various names³ in literature and legislation, has been remarkable in the past thirty years in almost all countries. Greece makes no exception. The Greek Independent Administrative Authorities, as they are officially called in legislative texts following the French paradigm, seem to have first appeared in 1989⁴, although some may have pre-existed with a different legal status (Venizelos, 1999). Since the early 1980s’ two categories of independent authorities emerged: those protecting human rights, and those regulating the market and the utility sectors (OECD, 2005).

The revised Greek Constitution of 2001 gave constitutional backing to five “independent authorities”⁵ regulating, exclusively or additionally⁶, public administration: the Hellenic Data Protection Authority (Article 9A), the National Council for Radio and Television⁷ (Article 15), the Hellenic Authority for Communications, Security, and Privacy (Article 19A), the Supreme Council for the Selection of Personnel (article 103, par. 7), and the Greek Ombudsman (Article 103, par. 9). It should be noted that all these authorities, with the exception of the Supreme Council for the Selection of Personnel, were established as a result of the international legal obligations of the country (Venizelos, 2007). Karkatsoulis (OECD, 2005) explains why they enjoy a constitutional guarantee of independence.

The rationale of the constitutional legislator is quite clear: the answer to the proposal for a constitutional guarantee for all the IAs [Independent Authorities], was the expression of his explicit will to include only those related to the enhancement of human rights and not the others, operating within the market sector.

Therefore, the constitutional guarantee of independence was only reserved for the regulators assuming the role of citizens’ protectors against the encroachment of their constitutional-human rights by the state. The relevance of the mission of these constitutionally consolidated authorities, as well as the fact that little academic research has evaluated the effectiveness of regulatory processes inside government

¹ Courts are not included since they represent the judicial branch in the classical tripartite system of the separation of powers.

² Economic regulation, social regulation, political regulation, and human rights regulation.

³ Terms such as Independent Administrative Agencies, non-majoritarian institutions, autonomous bodies or organisms, quasi-autonomous non-governmental organizations (QUANGOS), non departmental public bodies, extra-governmental organisations, subsidiary organisations are in usage in the literature and legislation.

⁴ The National Council for Radio and Television regulating public and private broadcasters.

⁵ The term “constitutional independent authorities” will be used hereinafter.

⁶ The Hellenic Data Protection Authority, the Greek National Council for Radio and Television, and the Hellenic Authority for Communication, Security and Privacy regulate public and private organizations alike.

⁷ The National Council for Radio and Television will not be included in our study since the regulation of private radio and television -due to their predominant position and influence- rather than that of the public broadcasting seems to be more crucial in the evaluation of the authority’s relationship and degree of independence from the private broadcasting industry.

(Boyne et al., 2002), gave the inspiration to assess through a qualitative analysis the degree of the de facto independence of IRAs from public administration⁸.

But how is the concept of the de facto independence defined? According to literature on regulation, the Independent Regulatory Agencies are based upon the agency model combining expertise, autonomy, specialisation of tasks, and including a variety of activities, objectives, and institutional designs. Therefore, the degree of their autonomy from their regulatees in regulation inside government, that is, public administration, is a precondition for the success or failure of regulation. We could further argue that regulatory failure has greater impact when it fails to effectively protect the citizens' human rights provided for in the Constitution and international treaties. According to Nordlinger (1987) autonomy means to be able to translate one's own preferences into authoritative actions without external constraints. It should be taken into consideration that the concept of autonomy encompasses the *formal-legal* level of autonomy and *de facto* autonomy. According to Olsen (2009), de facto autonomy combines the absence of external interference and the capability of an agency or institution to exploit available spaces to manoeuvre. Subtracting from Nordlinger's concept of autonomy the dimension of states' self-rule and strength, Maggetti (2007), following Majone (2001), uses the term "independence" in the sense of separateness and makes the distinction between formal and de facto independence.

Formal independence corresponds to the guarantees of independence from the political decision-makers as stamped on a series of prescriptions enshrined in the constitutions of the agencies (Gilardi, 2002), whereas de facto independence is viewed as a way to assess the independence of the agencies' day-to-day regulatory action from the political decision-makers and the regulatees (Maggetti, 2007). We may argue that the study of independent authorities, as regulators inside government, presents the particularity that the regulatees coincide with bureaucrats and public functionaries, who, in turn, are either hierarchically subordinated to the political decision-makers or indirectly linked to them (e.g. university professors). This special aspect of regulation inside government, namely, the same regulatee in a double role, makes the research on the de facto independence of the Greek constitutional independent authorities from public administration challenging.

Taking this particularity into consideration, the concepts of formal and de facto independence are interrelated. More specifically, certain aspects of the formal independence, that is, the institutional design concerning i) the selection mechanisms provided for the members of the authorities, ii) the recruitment strategies for the personnel's selection, and iii) the adoption of immunity arrangements for the members of the authorities, are theoretically challenged and empirically assessed. Thus, high or low levels of formal independence resulting from the empirical evidence on the construction and implementation of the institutional design as well as the profile of the members and the personnel of the authorities facilitate the assessment of their impact on the de facto independence. These parameters inevitably formulate the actors' preferences and choices in the performance of their regulatory functions. In other words, the dissertation attempts to evaluate whether the relevant levels of formal independence as defined by theoretical perspectives and empirical

⁸ In our research we use the expression "the de facto independence of IRAs from public administration" since the study refers to regulators overseeing the executive and not other branches of government.

evidence might undermine the independence of the agencies' day-to-day regulatory action towards the regulatees in their double role. The presentation and analysis of cases of regulatory failure also tries to reveal the regulators' psychology and tactics towards public administration, thus facilitating the assessment of their de facto independence through real action. Thus, the main research question that this dissertation attempts to address lies in the detection of signs of regulatory capture through the autonomous study of each one of the dyadic presentations, and the subsequent impact of their interaction on the de facto independence of the Greek human rights regulators from public administration.

2. Theoretical framework and contribution

The study of interactions among actors in delegatory, hierarchical, and accountability relationships, and their relevance for organisations and institutions are central in rational choice approaches in political science and economics. Neo-institutional economics focus on the constraints posed by institutions on the preferences and decisions of individuals. The principal-agent branch of neo-institutional economics, or agency theory, integrates aspects of the property rights theory and transaction costs theory, and uses them in order to construct principal-agent relationships (Groenendijk, 1997). The basic assumption of the standard principal-agent model lies in the concepts of information asymmetry and goal conflict: agents have informational advantages over their principals (information asymmetry), whereas agents' and principals' interests diverge (goal conflict). Principals counterbalance agency losses (agents' shirking) by imposing ex ante and ex post controls.

Mitnick (as cited in Moe 1984; Waterman and Meier, 1998) was the first to apply organisational economics to public bureaucracy, and introduced the principal-agent model for the study of the relationship between agents in the regulatory bureaucracy and their political principals. Since then relevant studies have greatly expanded and empirical evidence has shed more light on bureaucratic politics (as cited in Waterman, Rouse, Wright, 1998). Moe (1984) created a chain of principal-agent relationships in democratic politics, and argued that:

Democratic politics is easily viewed in principal-agent terms. Citizens are principals, politicians are their agents. Politicians are principals, bureaucrats are their agents. Bureaucratic superiors are principals, bureaucratic subordinates are their agents. The whole of politics is therefore structured by a chain of principal-agent relationships, from citizen to politician to bureaucratic superior to bureaucratic subordinate and on down the hierarchy of government to the lowest-level bureaucrats who actually deliver services directly to citizens. Aside from the ultimate agent, each actor in the hierarchy occupies a dual role in which he serves both as principal and as agent. The formal apparatus and deductive power of the principal-agent model are applicable to each of these hierarchical stages of government, and might usefully be employed in investigating even the most basic questions of democratic control and performance.

We apply a new version of Moe's schema to our study on regulation inside government. Moe's chain of principal-agent relationships will be altered in three

respects: first, politicians and regulators develop a delegatory relationship instead of a hierarchical one; second, we insert the external at arm's-length relationship where regulators become at arm's-length principals of the political decision-makers who, in turn, are the regulatees representing public administration (political decision-makers act simultaneously in reversed roles); third, we introduce the external accountability relationship, where citizens, as principals, control regulators-agents in terms of their members' personal legal responsibility, namely, the presence or absence of immunity provisions in the discharge of their duties.

Moreover, four points should be clarified. First, we examine principal-agent relationships in dyadic presentations despite the fact that we fully acknowledge the existence of multiple principals. The inclusion of the multiple principals' version does not serve our purpose. Second, principals and agents are conceived of as single unitary actors, and not as individuals in legislatures or bureaucracies with a variety of personal interests and preferences. Third, we adopt Waterman's and Meier's (1998) proposal on an alternative principal-agent model that is dynamic. In their paradigm, they argue that *"information and goal conflict are not constants, but rather continuous variables in a bureaucratic model"*. In other words, they identify multiple combinations between information and goal conflict. The dyad information asymmetry and goal conflict is not the only possible combination in relationships, and we should *"see information and goal conflict/consensus as operating on a continuum"* (Waterman and Meier, 1998). Fourth, in delegatory relationships, Majone (2001) argues that the principal-agent model does not apply in cases when full delegation of powers is transferred to an agent-trustee. Despite the fact that delegation in regulatory agencies is linked to the concept of independence, central banks seem most likely to support the assumption of the trustee relationship. The credibility of policy commitment is strong in monetary policy. Therefore, regulatory agencies in our paradigm should be conceived of as agents since they lack a full transfer of political property rights, and thus exercise implementing powers rather than initiative powers such as legislative ones.

Within this context, four principal-agent dyads are constructed:

- i) The delegatory relationship:
The political decision-makers (principals) and the members of the constitutional independent authorities (agents),
- ii) The internal hierarchical relationship:
The members of the constitutional independent authorities (bureaucratic superiors-principals) and their personnel (bureaucratic subordinates-agents),
- iii) The external-at arm's-length relationship:
The independent authorities-principals and public administration (agents-regulatees),
- iv) The external accountability relationship:
The citizens as external principals and the constitutional independent authorities as their agents

Therefore, Moe's schema on the chain of principal-agent relationships in democratic politics served as a model for the construction of an analogous chain in regulation inside government. The four principal-agent dyadic presentations, as a theoretical construction, unravel and frame the intra- and inter-relationships among actors in regulation inside government. Thus, each dyad autonomously and in its interaction

with the others constitutes a control mechanism that enables us to assess qualitatively the de facto independence of IRAs from public administration.

The adaption of Moe's schema based on principal-agent relationships served as a theoretical vehicle that facilitated the imaging of the actors' selection mechanisms, identification, involvement in public life, responsibility, and interaction within the system of regulation inside government. Yet empirical evidence led the way in the sense that it was first located, elaborated, and assessed, and then it was embedded into a theoretical construct. Taleb (2009) in his foreword on Pablo Triana's book "Lecturing birds on flying" states on the relationship between theory and practice:

The biggest myth I encountered in my life is as follows: that the road from practical know-how to theoretical knowledge is reversible – in other words, that theoretical knowledge can lead to practical applications, just as practical applications can lead to theoretical knowledge . . .

Yet the strange thing is that it is very hard to realize that knowledge cannot travel equally in both directions. It flows better from practice to theory – but to understand it you have to have theoretical knowledge. And people who have nontheoretical knowledge don't think of these things.

Indeed if knowledge flowed equally in both directions, the theory without experience should be equivalent to experience without theory – which is not the case . . .

3. Methodology

Contrary to economists or political scientists applying sophisticated methods in agency theory, we were oriented towards the study, analysis, and application of the institutional design in the four principal-agent dyads, as reflected in the legal framework on the one hand, and the use of raw, qualitative data derived from the minutes of Parliament, the Government Gazette, jurisprudence, annual reports, agencies' websites, legal opinions, and texts issued by international organisations on the other. The selection of these not trendy methodological tools applied in our research brings back to the discussion the debate over the legitimacy for scholarship. Moynihan states (2009) on the issue:

For scholarship, it is also unlikely that the legitimacy of public administration can be built on a legal perspective. . .

In contemporary times, scholarly legitimacy is also tied to the standards of social science. Critics of public administration have argued that it has failed to offer strong theories and methodologically defensible research (e.g., Lynn 1982; Moe 1994). A common recommendation is to adopt methods and theories derived from economics. While some have criticized this trend, the field as a whole has been unable to ignore it. The creation of newer public affairs schools was partly the result of the perception that traditional public administration programs were characterized by "insufficient rigor and an affinity for institutional description rather than analysis of

choice and action” (Lynn 2001, 146). These schools defined scholarly ideals (if not always practice) in terms of social science standards. Similar to traditional public administration, legal scholarship has been criticized as lacking rigor. As long as administrative scholarship is defined by the standards of social science, it is the normative and methodological framework of economics, and not law, that will form the ideal for intellectual training. The content of PhD training in top public affairs programs reflects this fact.

Indeed, in recent years social scientists seem to have been suffering from a syndrome, probably attributable to an unjustifiable inferiority complex, urging them to imitate methods applied in science. Plurality in research methods is desirable. However, there are limitations since it seems hard to model human action. Taleb (2009) states on the issue:

Economics, of course, is not physics. For one very simple, yet inevitably powerful reason: In one case the laws are immutably God-made and thus permanently exact (all one has to do is go find them and, with luck, express their structure down on paper) in the other, the rules are dictated not by God, but by his creatures, as humble humans.

Therefore, social scientists should accept the fact that they observe phenomena of a world created by humans, namely, a world that is inevitably, and constantly under change. Taking these into consideration, the dissertation mixes old-fashioned, conventional methodological tools with a theory derived from economics. A pure qualitative analysis is the method applied, whereas case study corresponds to the research strategy. Van Maanen (1999) argues that there is no clear definition and no universal agreement on what a case study is. His perception of the concept refers to *“in-depth investigations of some particular social setting with a focus on the events that occur in and over time in that arena . . . Case studies are in short close readings – put in writing- of certain, tightly located social settings and mix descriptive (representational) and analytic (interpretive) elements into the stories told . . . Generally speaking, they contrast most starkly with the ahistorical and non-event framework associated with most forms of variable analysis”*. According to Yin (1981b), case study is a research strategy that parallels the work of a detective whose concern revolves around building inferences about what has happened, why and in what circumstances. Case studies can involve i) either single or multiple cases, ii) the collection and analysis of many sources of information (archives, interviews, questionnaires etc), iii) multiple levels of analysis. Regarding the accomplishment of various aims, they may provide description, test theory or generate theory.

In our research we have selected four cases of regulators inside government fulfilling Hood’s criteria. The research is based on the qualitative data mentioned earlier. However, sources of information, such as interviews or questionnaires, were excluded from the toolkit of empirical evidence. In our view, they give an indirect and subjective glimpse of reality. Gillham (2000) states in relation to interviews:

A common discrepancy is between what people say about themselves and what they actually do. In an interview people can be very convincing because they are sincere. But as G. K. Chesterton observed in the “Return of Don Quixote” “people are never more mistaken about themselves than when they are speaking sincerely and from the heart”.

They're not lying, they're just not accurate. In a sense they don't know themselves. So if teachers in a school express a high level of satisfaction in their job, you need to check whether staff turnover, and staff absences corroborate that what you're dealing with here are two things that are quite different: what people believe (and it is a fact that they believe what they're saying) and what they actually do. To expect them to be the same is to misunderstand how people function.

On the contrary the selected categories of qualitative data offer a high degree of credibility since they are inherently objective. We could argue that they are valid and solid, albeit they do not dispose of the accuracy of numbers. The role of the institutional design, that is, law as a legal framework, is also crucial since its validity is tested through its compatibility with the constitution, administrative law, jurisprudence and legal theory. In other words, formulating laws presupposes the respect of these compatibilities against which the law is finally tested. As Woodrow Wilson (1887) famously proclaimed "It is getting harder to *run* a constitution than to frame one". Therefore, the adoption of distorted clauses might be considered as a signal of legislative manipulation. Moreover, the legal framework is assessed through cross-national comparative research. Thus, law becomes a means to assess and interpret reality, a complementary tool in political science.

According to Yin (as cited in Thomas, Nelson, Silverman 2005), analysis of case study data seems the least developed and codified part of this research strategy. Our analysis is two-level. First, we proceed to a diachronic, within-case analysis involving description which is crucial for the generation of insight. Second, within-case analysis is complemented by cross-case analysis. The tactic to be followed is to trace within-group similarities coupled with intergroup differences (Eisenhardt, 1999). The chain of principal-agent relationships in regulation inside government is unfolded using what Yin calls a chain of evidence where "*all of this evidence needs to be woven into a narrative account . . . i.e., each key element or link in your account supported by or related to evidence of different kinds*" (Gillham, 2000). Finally, qualitative analysis based upon description and interpretation provides a straightforward approach to reality since in Yin's view (2003) the scope of the case study is defined as "*an empirical inquiry that (1) investigates a contemporary phenomenon within its real-life context, especially when, (2) the boundaries between phenomenon and context are not clearly evident*".

4. The argument of the dissertation

Contrary to economic or social regulation, the implementation of the principal-agent model in regulation inside government reflects two sides of the same coin: principals in the delegatory dyad, namely political decision-makers, are simultaneously agents in the external at arm's-length relationship. Therefore, the independent authorities in regulation inside government cannot be conceived of as intermediary organizations (Braun, 1993) between two different external actors since we simply notice one protagonist keeping a double role at the same time. Indeed, this simultaneous double role of the political decision-makers in regulation inside government puts enormous pressure on regulators that find themselves in the middle of a linear and simultaneous double relationship with the same actor, that is, political decision-makers as principals (legislators, government) and agent (political supervisors of the bureaucracies). Empirical research on economic regulation where actors' relationships are more

complex since regulatees come from the private sector has proved that “formal independence is neither a necessary nor a sufficient condition to explain variations in the de facto independence of agencies” (Maggetti, 2007, 2009). In such relationships formal independence seems irrelevant.

In regulation inside government, the rules of the game, that is, the institutional design of the independent authorities is formulated by the political decision-makers, and this, in turn, will affect them in their role as agents at the other end of their relationship with their principals-regulators. In other words, state interests become the field of regulation. This particularity of the PA model in regulation inside government motivated us to further investigate and re-interpret certain aspects of the formal independence of the independent authorities from the political decision-makers since they seem to have a decisive impact on the regulators’ de facto independence from public administration. In other words, our intention was to challenge theoretically and empirically prevailing views regarding some aspects of the formal independence of the independent authorities. The qualitative approach was facilitated by the small number of cases, the high degree of credibility of the data, and the familiarity with the politico-administrative framework of the country. More specifically, the selection of the members of the IAs by the Conference of the Presidents of the Greek Parliament, the selection of the personnel by the independent authorities (IAs), and immunity provisions enjoyed by the members of the IAs, as aspects of high formal independence from political decision-makers, are questioned. Therefore, we further investigated and assessed their repercussions on the de facto independence of the IAs with respect to the actors’ preferences and choices in the performance of their regulatory functions. These three aspects equally correspond to the first, second and fourth dyadic presentations of the chain of the principal-agent relationships in regulation inside government.

The inspiration for the research is based upon the U.S. literature on bureaucratic politics and the main assumption of agency theory that “*political control is possible because elected institutions create bureaucracies*” (Wood and Waterman, 1991). Indeed, the institutional design (i.e., the above mentioned aspects of formal independence) may facilitate the control of the so-called depoliticised independent agencies. This, in turn, impacts on the quality of the agencies’ regulatory action – inertia included- and affects the degree of their de facto independence from public administration. Discussions in Greek parliament regarding IAs reveal a rather reserved stance towards these agencies, and this might better explain the inclination to control them through the appropriate legal framework.

Indeed, the theoretical discussion of the first dyad on the members’ selection mechanisms leads to the conclusion that the final appointments clause could be considered as flawed in terms of constitutionality and transparency. The Conference of the Presidents, a small in number legislative organ constituted by the MPs of the political parties represented in parliament, that is, the political system in its entirety, assumes a peculiar form of collective responsibility in democracy in relation to the selection of the members of the IAs. The deadlocks of the parliamentary review of the IAs and the precondition for almost unanimous decisions for the members’ selection seem to create a tautological and autistic mechanism in the delegatory relationship with inevitable repercussions to the other dyads. On the other hand, the empirical part of the delegatory relationship regarding the identification of the finally appointed

members reveals signs of informal party representativeness in the composition of the IAs. This finding confirms that “*most governments are reluctant to admit patronage practices due to the negative connotation the notion of partitocracy has in public opinion*” (Kopecky and Scherlis, 2008). However, in our case, it is not governments but the whole political system participating in patronage practices. But even if we accept the widespread view that the members of the IAs do not represent their respective parties, or even if there is no evidence of party affiliation, most of them have broad and intense involvement in public life.

The institutional design of the selection mechanisms in the internal hierarchical relationship contains signs of bureaucratic clientelism either in terms of flawed clauses or close relational distance from public administration. Furthermore, flawed selection clauses permit to test the legality of the members’ administrative action. On the other hand, the selection procedures in cases of direct hiring of the personnel of the IAs are not systematized compared to the ones provided for in the general recruitment system in the public sector. The significant number of negation of appointments and resignations on the part of the scientific personnel for other positions in the public sector probably prove that the independent authorities are not highly esteemed. The paradigms of regulatory failure in the external at arm’s length relationship are indicative of the regulators’ behaviour that gives the impression of not exceeding the limits of what would be acceptable by the regulatees, namely public administration-political decision-makers.

The external accountability relationship challenges the widespread view that immunity provisions enjoyed by the members of the IAs enhance their independence from political decision-makers, and ultimately public administration. We approached the issue from a different perspective. The fourth dyad, that is, citizens-independent authorities, is based upon the idea of connecting regulation inside government and human rights. The topic is original since, for the first time in regulatory literature, it discusses the impact of the violation of the right of access to court under article 6 of the European Convention on Human Rights on the independence of these authorities from public administration.

5. The structure of the dissertation

Each chapter is linked to one dyadic presentation. A brief analysis of the content of each dyad is presented hereafter.

i) The first dyadic presentation: the delegatory relationship

Two chapters are dedicated to this dyadic presentation. The first chapter presents the formal institutional mechanisms established by the principals-political decision-makers in order to reduce agency losses. These are ex ante controls that safeguard against adverse selection and moral hazard. Kaare Strom (2000) describes these concepts and their implications as follows:

Agency problems are likely to be exacerbated under hidden information (principals do not fully know the competences or preferences of their agents or the exact demands of the task at hand) or hidden action (principals cannot fully observe

the actions of their agents). The former of these parameters can give rise to problems of adverse selection, the latter to moral hazard. The former of these problems may lead principals to systematically select the “wrong” agents, agents that do not have the most appropriate skills or preferences. The problem of moral hazard, on the other hand, arises when agents, once selected have incentives and opportunity to take unobservable action that is contrary to the interests of the principal.

These ex ante controls correspond to the selection mechanisms that are devised before regulatory action takes place. The relevance of the delegatory dyad might be crucial to the operation of the chain of principal-agent relationships in regulatory politics inside government. It represents the starting point that defines the interactions with the other dyads. Under certain circumstances, it may lead to the domino principle situation, that is, regulatory failure. Therefore, the institutional design regarding the appointments clauses of the members of the constitutional independent authorities is presented and analysed in a diachronic perspective. The qualitative assessment of the institutional design attempts to test its constitutionality and transparency, and their impact on the de facto independence of the independent authorities from public administration.

The second chapter corresponds to the empirical part of the delegatory relationship, that is, the identification and profile of the members-agents of the four independent constitutional authorities finally selected and appointed by the principals-political decision-makers. The chapter is divided into two units. The first unit presents the institutional design and its implementation in relation to the members’ professional status, relational distance from public administration, length of tenure, reappointments, and functional accumulation status accompanied by the relevant empirical data in a diachronic perspective. The issue of the members’ resignations is also presented and discussed based on empirical evidence. The tactics followed by the political decision-makers regarding the members’ replacements and reappointments in terms of institutional design and its application might also be part of the political decision-makers’ control mechanisms over the authorities.

The second unit images the members’ overall involvement in public life through the construction of an involvement in public life index containing their career paths in the public sector. A second index focuses on the evolution of their career paths in the public sector in a diachronic perspective, that is, before, during, and after their term of office on the independent authorities. Furthermore, both indexes serve as a tool to examine the broadness and intensity of the members’ involvement in public life, and locate cases of functional accumulation. The purpose of the unit is to explore the appointees’ profiles and career paths in the public sector, and therefore test their degree of involvement in public life. Thus, a high degree of involvement in public life could inevitably be a sign of low degree of independence from the political decision-makers and public administration.

ii) The second dyadic presentation: the internal hierarchical relationship

The third chapter is divided into two units. The first unit examines in a diachronic perspective the ex ante controls applied by the political decision-makers in relation to

the recruitment strategies for the selection of the administrative and scientific personnel of the independent authorities, that is, transfers, secondments and direct hirings. Furthermore, the institutional design of the appointments clauses is qualitatively assessed through a test of its compatibility with the constitution, administrative law, and jurisprudence. Cases of distortions in the recruitment clauses could be interpreted as legislative manipulation. In other words, a distorted institutional design drafted by the political decision-makers serves as an ex ante control of the personnel of the authorities, thus diminishing their de facto independence from public administration. Under such circumstances, the burden of its application falls on the members of the authorities.

The second unit comprises the presentation of the empirical data regarding the personnel's profiles in relation to the following aspects: level of education, specialization, grades, agencies of provenance in the case of transfers and secondments, previous appointments in the public sector, gender distribution, in-service mobility, resignations or revocation of appointments, new appointments, secondments and transfers in the public sector, involvement in public life and functional accumulation. Furthermore, two indexes were constructed for the scientific personnel following the members' paradigm, that is, i) an involvement in public life index, and ii) a time-dimension involvement in public life index. They serve as source of information in order to detect the scientific personnel's involvement in public life, and locate their career paths through time, namely, before their appointment, while in service, and after their resignation or revocation of their appointment, if such cases exist. In cases of direct hiring, the public announcements published in the government gazette or those still available on the internet permit us approach the credibility and impartiality of the autonomous selection system through the assessment of the selection criteria, and the application of grading systems for the evaluation and classification of the candidates.

iii) The third dyadic presentation: the external at arm's-length relationship

The external at arm's-length relationship seeks to identify cases of regulatory failure, a term we use to define the management of cases by the regulator in a way that safeguards the regulatee's interests, thus failing to serve the public interest. This, in turn, could finally be the result of regulatory capture, thus implying a straightforward collusion between regulator and regulatee, the latter in the double role of public administration-political decision-makers. Different approaches and tools were applied for each independent constitutional authority in order to highlight indicative instances of regulatory failure.

In the case of the Supreme Council for the Selection of Personnel, a simulative control of the constitutionality of laws relating to the regulatory field of the authority serves as a tool to assess the members' own initiative omissions. In the case of the Greek Ombudsman, regulatory failure is tested indirectly through the assessment of the exhaustion of its statutory powers of a deterrent character and in relation to high levels of corruption in the country. Two case studies of regulatory failure attempt to present how the Greek Ombudsman approaches and fulfills his institutional role. In the case of the Hellenic Data Protection Authority, the Decision 27/2007, which prevented the uploading of the university professors' selection minutes in the internet, apart from their publication in a freely accessed special volume explicitly provided for

in the law 2083/1992, was selected as a characteristic paradigm of regulatory capture, that is, a probable collusion between regulator and regulatee. In the case of the Hellenic Authority for Communication, Security and Privacy, the research simply failed to detect incidents of regulatory failure as the regulatory action remains incomplete in two respects. First, the authority *ex ante* fails to audit its main public sector regulatee, that is, the National Intelligence Service. Second, a flawed clause deprives the authority of having recourse to legal remedies in the exercise of the control of the legality of the rulings and ordinances relating to the terms and conditions of the procedure for the waiver of the confidentiality of communications.

iv) The fourth dyadic presentation: the external accountability relationship

The external accountability relationship between citizens-principals and regulators-agents is inspired by Dieter Kerwer's principal-agent model applied in the concept of the external accountability in global regulation (2005). Internal accountability relationships are developed between actors when principals delegate powers and resources to agents (e.g., parliamentary review) or in hierarchical relationships (within an organization). In external accountability relationships an actor becomes a stakeholder when choices of another actor affect him in the sense that these choices are rules with a coercive character. As a result, legality matters arise. Thus, stakeholders-agents inevitably become principals and seek ways to impose sanctions to their agents. The judicial review of the decisions of the agencies is one aspect of external accountability. The legal responsibility of bureaucrats is another. Yet, immunity arrangements for the members of the five constitutional independent authorities in Greece create a human rights paradox and violate the right of access to court under article 6 of the European Convention on Human Rights.

Our analysis proceeds as follows: First, we present the legal framework regarding the legal responsibility of civil servants in Greece and relevant jurisprudence of the Council of State. Then, we comment on the introduction of immunity provisions for the high-ranking public functionaries of the five constitutionally consolidated independent administrative authorities, and on the relevant discussions in parliament. Next, a brief history is presented of the evolution of the ombudsman and the main immunity regimes in the institution since it appears that the French version served as a model for the Greek Ombudsman and became the justificatory basis for the extension of immunity provisions to the other authorities in Greece. A fourth step concerns a discussion on the sources of inspiration for the immunity regime in the institution of the ombudsman, that is, parliamentary immunity, immunity enjoyed by the officials of international organisations, theoretical approaches, and legal opinions. Then, we propose a typology of immunity in the institution of the ombudsman derived from the study of relevant provisions in the legislation of Council of Europe member states. Finally, we assess whether the regulatory agency of these authorities justifies the measure, on the one hand, and we discuss the relationship between expertise and legal responsibility, on the other. We conclude that the extension of immunity provisions beyond "the degree necessary for a democratic society"⁹ traumatizes the polity and

⁹ The part of the sentence in quotation marks is a citation from Principle 6 of Resolution (97)24 of the Council of Europe Committee of Ministers on the Twenty Guiding Principles for the Fight Against Corruption: 'to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society'. Available at: [http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20\(97\)%2024%20COE.pdf](http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20(97)%2024%20COE.pdf), date of access: 06.01.2010.

citizens' trust in government. In the Greek case, immunity provisions for the members of the five constitutionally consolidated independent administrative authorities restrict the de facto independence of these agencies from public administration through the violation of the citizens' human rights.

Chapter 1

The Delegatory Relationship: The Political Decision-Makers and the Members of the Constitutional Independent Authorities

**A qualitative, diachronic assessment of the institutional design of the
appointments clauses of the members
of the Greek constitutional independent authorities:
A test of constitutionality and transparency**

1. Introduction

The diachronic presentation and the subsequent qualitative assessment of the institutional design of the selection mechanisms for the appointment of the members of the constitutional independent authorities¹⁰, both before and after their constitutional consolidation in 2001, pertains to the first principal-agent dyad, namely, the delegatory relationship. The qualitative assessment of the institutional design presupposes that two research procedures have to be fulfilled: first, a test of the constitutionality of the clauses, and second, a test of their transparency. The methodology to be implemented for these tests is two-fold. The first stage, which serves as the fundamental source for the analysis, consists of the selection of the relevant appointments clauses, as prescribed in national legislation as well as legislation of Council of Europe member states, minutes of the Hellenic Parliament, jurisprudence of the Greek Council of State and the United States Supreme Court, the European Court of Justice, recommendations of the Council of Europe, and theory. The second stage comprises the elaboration of the raw data of the first stage in a sophisticated manner. First, we approach the issue of the test of constitutionality through the lenses of a scholarly critic inspired by a court simulation. The contrasting methods of formalism¹¹ and functionalism¹² applied by judges as means to approach

¹⁰ Our research studies the selection mechanisms of the following constitutionally consolidated Greek independent authorities: the National Council for Radio and Television (NCRTV), the Supreme Council for the Selection of Personnel, the Hellenic Data Protection Authority, the Greek Ombudsman, and the Hellenic Authority for Communication, Security and Privacy. The National Council for Radio and Television will not be included in our study since the regulation of the private radio and television - due to their predominant position and influence- rather than that of the public broadcasting seems to be more crucial in the evaluation of the authority's relationship and degree of independence from the private broadcasting industry. Nevertheless, the appointments clauses of the NCRTV, the first greek independent authority established in 1989, served as a model of inspiration for the formulation of the relevant clauses in the other authorities. Moreover, the argumentation of a number of MPs who supported certain selection mechanisms was based on appointment practices previously implemented in the case of the NCRTV. Finally, there will be no analysis of the appointments clause of the members of the Hellenic Authority for Communication, Security and Privacy since the agency was established in 2003, that is, after the constitutional revision of 2001. Consequently, the appointment provision 101A, par. 2, as provided for by the revised constitution of 2001, also applies in the case of the Hellenic Authority for Communication, Security and Privacy.

¹¹ Formalism is a "*theory that law is a set of rules and principles independent of other political and social institutions*" (Black's Law Dictionary, 1999). The defenders of legal formalism argue that judges and other public officials in their interpretation of legal texts should be guided by what the law *does* say rather than by what the law *should* be. Otherwise, there would be a violation of the separation

separation of powers problems are equally used as the appropriate yardstick for the test of constitutionality through comment and interpretation of the discussions in Parliament, and the variations of the appointments clauses. In other words, discussions¹³ (preliminary stage) and clauses¹⁴ (final stage) of the selection mechanism for each authority are considered as separate cases where formalist and functionalist argumentation in relation to the separation of powers principle is contrasted. Second, the test of transparency is assessed in two ways: first, through the conformation or non conformation of the appointments clauses to relevant transparency recommendations issued by the Council of Europe; second, through a short comparative analysis regarding relevant selection mechanisms¹⁵ in the other Council of Europe member states. We should clarify that the test of transparency is implemented in the final convergent appointments clause as provided for in the revised constitution of 2001. This unit is structured as follows: first, we present, for each authority, the final appointments clause as prescribed in legislation; second, we cite discussions in parliament based on the relevant minutes; and third, we comment on the MPs' argumentation and analyze those issues that demand further clarification. Fourth, we test the constitutionality of the appointments clauses through the formalist and functionalist approaches with respect to the issue of the separation of powers.

The purpose of this section is to explore and interpret the first part of the chain of principal-agent relationships in regulation inside government, namely, the delegatory relationship. The conclusions regarding the tests of the diptych constitutionality-transparency may further serve as points of reference for the evaluation of their impact on the de facto independence of the authorities from public administration. The final assessment of the degree of influence of the delegatory relationship on the degree of the de facto independence of the authorities from public administration will be complemented by the empirical data regarding the members' professional background, possible party affiliations, provenance (public or private sector-relational

of powers. Justice Antonin Scalia of the United States Supreme Court, a fervent defender of formalism, which actually is a synonym of textualism, argued in *A Matter of Interpretation* that: “Of all the criticisms leveled against textualism, the most mindless is that it is formalist. The answer to that is, of course it's formalist! The rule of law is about form . . . A murderer has been caught with blood on his hands, bending over the body of his victim; a neighbour with a video camera has filmed the crime and the murderer has confessed in writing and on videotape. We nonetheless insist that before the state can punish this miscreant, it must conduct a full-dress criminal trial that results in a verdict of guilty. Is that not formalism? Long live formalism! It is what makes us a government of laws and not of men” (Scalia, 1997).

¹² Legal functionalism or legal realism is contrasted to legal formalism in the sense that realists “instead of the generation of legal entitlements from the germ of a legal idea or concept, they proposed a pragmatic, empirically grounded analysis of the relationship between legal rules and the social world in which they operated and which they helped to construct and a frank balancing of the rights and interests at stake in the choices on offer . . . Functionalism began as an antidote to a conceptualism that attempted to divorce legal reasoning from context in adjudication”. (Rittich, 2005). In other words, the defenders of functionalism argue that legal texts should be interpreted in a creative manner that ensures the promotion of good public policy and social interests.

¹³ See Appendix 2 for abstracts from discussions in Parliament on the appointments clauses of the members of the constitutional independent authorities.

¹⁴ See Appendix 3 for the full texts of the appointments clauses.

¹⁵ We selected and codified appointments clauses of the heads and members of the management boards of i) the national regulatory authorities in the broadcasting field, ii) the national regulatory authorities for the protection of personal data, and iii) the national offices of Ombudsmen and deputy Ombudsmen in Council of Europe member states (see Appendices 4, 5 and 6).

distance), and frequency of appointments in various governmental committees or boards in the public sector, or consultancy positions in government.

An explanatory text on the formalist-functionalist approaches applied by the judges of the U.S. Supreme Court in the separation of powers problems as those raised by relevant appointments clauses in independent agencies is presented in Appendix 1. We considered that it would be impossible for the reader to follow the test of constitutionality without prior reference to the issue. Furthermore, the issue of the separation of powers is inevitably linked to the perennial theoretical confusion over whether independent agencies are part of the executive branch of government or they should be considered a fourth branch of government. Nevertheless, some scholars in the U.S. argue that such a dilemma is irrelevant since there should be a shift from considerations of locating independent agencies in government to concerns over understanding agency structure in checks and balances terms (Strauss, 1984). Therefore, we will briefly present the evolution of the formulation of the decisions of the United States Supreme Court on the issue, the trend towards a unitary administration in the U.S. since the advent of the Reagan Administration, and relevant theoretical approaches of scholars in the U.S and in Greece. The heretic opinion of the Advocate General Mazak on the independent authorities' place in government in Case-518/07 of the European Court of Justice, which was rejected in the final judgement of the Court¹⁶, is also taken into consideration. On the other hand, functionalism, as reflected in commitments to International Governmental Organisations regarding a series of appointments clauses relating to human rights regulators, seems to strengthen and legitimize the views of the Greek scholars. Nevertheless, contrary to these functionalist approaches and applications, the presentation of the case of Rhode Island that restored the checks and balances tradition in appointments proves the strong commitment of the U.S. to its own separation of powers orthodoxy even at State level.

¹⁶ Judgement of the Court (Grand Chamber) of March 9, 2010, Case C-518/07, *European Commission (supported by the European Data Protection Supervisor) v. Federal Republic of Germany*.

2. Appointments Clauses in the independent agencies: Theoretical approaches, policies, and jurisprudence

i. The United States Supreme Court: Formalism v. Functionalism in the concept of the separation of powers

The modes of argumentation deployed in the constitutional decisions of the United States Supreme Court in a diachronic perspective are, in practice, an alternation of formalist and functionalist approaches depending on the outcomes that each time had to be achieved (Rittich, 2005). These contrasting methods become the basic mechanism used by judges of the Supreme Court when problems of separation of powers emerge. More specifically, institutional innovations, namely, the creation of innovative structures in government, through Congress legislation, raise concerns over the principle of the separation of powers. The text of the Constitution explicitly names and ascribes functions at the apex of the governmental structure (Congress, President and the Supreme Court), whereas it does not provide for a precise outline of the structure at the lower levels of government, that is, agencies. Therefore, judges and scholars face the challenge of implementing the appropriate approach in order to give an answer to the issue of the constitutionality of an innovative structure.

Formalists, the defenders of the first approach, base their arguments on the inescapable constraints that the text and context of the constitution create (for example, the Appointments clause, Bicameralism and Presentment Clauses) on the one hand, and the clear definition of powers (executive, legislative, judicial) which can only be exercised by the President, the Congress, and the judiciary, respectively, as prescribed in the Constitution, on the other. Functionalists, the defenders of the second approach, argue that the complexity of the issues a modern government has to confront, that is, new economic and social realities and technological advancements, and their implications for the principle of the separation of powers, could not have been anticipated in the text of the Constitution by the time of its elaboration. Consequently, they recommend that courts should be more holistic in their approach provided that the creation of innovative structures in government guarantees the conservation of balance among the branches of government, namely, no branch may become too powerful at the expense of the others.

ii. The inescapable constraints of the constitution: a formalist approach of the U.S. Supreme Court in Buckley v. Valeo

The case *Buckley v. Valeo*¹⁷ challenged certain amendments of the Federal Election Act promulgated in 1974¹⁸. The act created the Federal Election Commission, and a

¹⁷ 424 U.S. 1 (1976).

¹⁸ “In 1974, over the veto of President Gerald R. Ford, the Congress, passed significant amendments to the Federal Election Campaign Act of 1971, creating the first comprehensive effort by the federal government to regulate campaign contributions and spending. . . .” Among other amendments it “created and fixed the method of appointing members to the Federal Election Commission (FEC) (formerly 2 U.S.C. §437c(a) (1)(A-C)). A lawsuit was filed in the District Court for the D.C., on January 2, 1975, by Senator James L. Buckley of New York, former Senator, 1968 presidential candidate Eugene McCarthy of Minnesota, and others. The suit was filed against Francis R. Valeo, the Secretary of the Senate and ex officio member of the FEC who represented the U.S. Federal

separation of powers problem was raised in relation to the appointments clause of the members of the Commission¹⁹. The Supreme Court had to decide on whether a direct legislative appointment of some of the members of the Commission was constitutionally permissible or all members should have to be appointed in accordance with the Appointments Clause²⁰. The judgement of the Court proved that the checks-and-balances²¹ approach prevailed over considerations related to the formal structure of the agency in question, that is, “*the necessity of maintaining the desired sharing of authority among the named actors of the Constitution*” (Strauss, 1984). Consequently, *Buckley* rejected an exception to the Appointments Clause²², namely, the empowerment of an extra-constitutional procedure legitimated by a functionalist alibi for independence. Interestingly enough, the Court, in the analysis of the

Government. The court denied plaintiffs’ request for declaratory and injunctive relief. Plaintiffs then appealed to the Court of Appeals. The petitioners sought for the district to overturn key provisions of the Act, the appointments clause among others”. Source Wikipedia, available at: http://en.wikipedia.org/wiki/Buckley_v._Valeo, date of access: 26.09.2010

¹⁹ The appointments clause read as follows: “*The body in which this authority is reposed consists of eight members. The Secretary of the Senate and the Clerk of the House of Representatives are ex officio members of the Commission without the right to vote. Two members are appointed by the President pro tempore of the Senate "upon the recommendations of the majority leader of the Senate and the minority leader of the Senate." Two more are to be appointed by the Speaker of the House of Representatives, likewise upon the recommendations of its respective majority and minority leaders. The remaining two members are appointed by the President. Each of the six voting members of the Commission must be confirmed by the majority of both Houses of Congress, and each of the three appointing authorities is forbidden to choose both of their appointees from the same political party*”. *Buckley v. Valeo*, 424 U.S. 113 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.

²⁰ The Appointments Clause of the U.S. Constitution, Article II. par. 2, cl.2 reads as follows: “[*The President*] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers as they think proper in the President alone, in the Courts of Law, or in the Heads of Departments”.

²¹ “. . . Unless their [officers of the United States] selection is elsewhere provided for, all officers of the United States are to be appointed in accordance with the Clause. Principal Officers are selected by the President with the advice and consent of the Senate. Inferior officers Congress may allow to be appointed by the President alone, by the heads of departments, or by the Judiciary. No class or type of officer is excluded because of its special functions. The President appoints judicial, as well as executive, officers. Neither has it been disputed -- and apparently it is not now disputed -- that the Clause controls the appointment of the members of a typical administrative agency even though its functions, as this Court recognized in *Humphrey's Executor v. United States*, 295 U. S. 602, 295 U. S. 624 (1935), may be “predominantly quasi-judicial and quasi-legislative,” rather than executive. The Court in that case carefully emphasized that, although the members of such agencies were to be independent of the Executive in their day-to-day operations, the Executive was not excluded from selecting them. *Id.* at 295 U. S. 625-626”. *Buckley v. Valeo*, 424 U.S. 132-133 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.

²² In the final formulation of its judgement, the Court concluded “. . . Finally, we hold that most of the powers conferred by the Act upon the Federal Election Commission can be exercised only by “Officers of the United States,” appointed in conformity with Art. II, § 2, cl. 2, of the Constitution, and therefore cannot be exercised by the Commission as presently constituted”. *Buckley v. Valeo*, 424 U.S. 143 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.

Commission's powers, acknowledged that if the Commission were only entrusted with powers of an investigative and informative nature, as those powers Congress might delegate to one of its own committees, the appointment provisions would have been acceptable²³. All other functions, rulemaking included, "*represent the performance of a significant governmental duty exercised pursuant to a public law. . .and may therefore be exercised only by persons who are "Officers of the United States"*" (Buckley v. Valeo, 424, U.S. 141,1976). This part of the judgement is puzzling. It rather seems to defend a view that a Committee of Congress might exist outside the legislature carrying out in practice statutory delegations. Nevertheless, Mr. Justice White expressed his dissent²⁵, arguing that the separation of powers principle prevented Congress from appointing federal officers, "*except for the power of each House to appoint its own officers serving in the strictly legislative processes and for the confirming power of the Senate alone*" (Buckley v. Valeo, 424, U.S. 271-272, 1976).

That part of the Court's judgement which allowed for a direct appointment competence of Congress, actually constitutes a partial deviation from the strict and absolute interpretation of the Appointments Clause, and probably encouraged Congress to vest in itself appointment power for agencies not performing "a

²³ "*Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them. Kilbourn v. Thompson, 103 U. S. 168 (1881); @ 273 U. S. 175: "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information -- which not infrequently is true -- recourse must be had to others who do possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed. All this was true before and when the Constitution was framed and adopted. In that period, the power of inquiry -- with enforcing process -- was regarded and employed as a necessary and appropriate attribute of the power to legislate -- indeed, was treated as inhering in it". Buckley v. Valeo, 424 U.S. 139 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.*

²⁴ In Buckley v. Valeo the Court, for the first time through the appointments clause of the members of the FEC, recognised that the Commissioners of independent agencies were "Officers of the United States" since they exercised "*significant authority pursuant to the laws of the United States...and must, therefore, be appointed in the manner prescribed by par. 2, cl. 2 of that article [the Appointments Clause of the Constitution]*". Buckley v. Valeo, 424 U.S. 126 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.

²⁵ "*I thus find singularly unpersuasive the proposition that, because the FEC is implementing statutory policies with respect to the conduct of elections, which policies Congress has the power to propound, its members may be appointed by Congress. One might as well argue that the exclusive and plenary power of Congress over interstate commerce authorizes Congress to appoint the members of the Interstate Commerce Commission and of many other regulatory commissions; that its exclusive power to provide for patents and copyrights would permit the administration of the patent laws to be carried out by a congressional committee; or that the exclusive power of the Federal Government to establish post offices authorizes Congress itself or the Speaker of the House and the President pro tempore of the Senate to appoint postmasters and to enforce the postal laws. Congress clearly has the power to create federal offices and to define the powers and duties of those offices, Myers v. United States, 272 U. S. 52, 272 U. S. 129 (1926), but no case in this Court even remotely supports the power of Congress to appoint an officer of the United States aside from those officers each House is authorized by Art. I to appoint to assist in the legislative processes". Buckley v. Valeo, 424 U.S. 274-275 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 27.09.2010.*

significant governmental duty”. Thus, the new form of the United States Civil Rights Commission, promulgated under the relevant Act of 1983²⁶ provided for a direct appointment competence of Congress²⁷, whereas the functions of the agency were strictly limited to conducting investigations and making reports²⁸. Nevertheless, the new arrangement, (irrespective of whether it properly interpreted the Buckley dicta) violates the checks and balances principle since “*the President and Congress may now each select half the membership of the Commission free of any need to secure the approval of the other, in other words, has produced a significantly diminished check on the outcome as a whole*” (Strauss, 1985).

In *Buckley v. Valeo* the Supreme Court avoided the formulation of a judgement which could have been based on the functionalist grounds that the status of the Federal Elections Commission, as an independent agency, operating under the guarantees of impartiality and expertise could justify its exemption from the constitutional rule of the Appointments Clause. Nevertheless, the Court held constitutional the appointment procedure of the FEC in the hypothetical case where the agency would only exercise powers of an investigative and informative nature as those assigned to the Committees of Congress. The justificatory basis for a hypothesis which came true with the appointments clause of the United States Civil Rights Commission was in a sense functional. In other words, it disregarded the formalist constraints of the delegatory relationship between the principal-Congress and the agent-the United States Civil Rights Commission through statutory arrangements on the one hand, and the exclusiveness of the constitutional Appointments Clause built upon the principle of checks and balances, on the other.

Interestingly enough, the issue of the possibility and permissibility of a direct role of Congress in the appointment of the members of independent agencies, and bureaucrats in general, also emerged in theory. McCarty (2004), was inspired by the ongoing debates in comparative politics on the separation of powers in presidential and parliamentary systems, and thus sought to explore the possible negative impact of dual sovereignties over the appointments system in the U.S. More specifically, he created a model which observed the interactions of three players - legislature, executive and agency- in order to assess how “bureaucratic accountability and

²⁶ The act was actually a compromise legislation that put an end to the intense confrontation between President Reagan and Congress due to disagreements upon the removal and appointment of some of the members of the Commission. Thus, the institutional design of the clause inevitably circumvented the dicta of the Appointments Clause of the Constitution.

²⁷ Section 2 (b) of the United States Commission on Civil Rights Act of 1983, as amended, reads as follows “*The Commission shall be composed of eight members . . . (1) 4 members of the Commission shall be appointed by the President. (2) 2 members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party. (3) 2 members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party*”. Available at: <http://www.usccr.gov/>, date of access: 27.09.2010.

²⁸ Strauss (1985) notices that: “*While investigating and reporting are distinctly auxiliary functions that might be performed by any of the three branches in pursuit of its own functions, the Civil Rights Commission was to perform them as ends in themselves, carrying out statutory delegations. Inevitably the simple fact of such activities and their results can affect the lives of private citizens in important ways*”.

performance can be undermined by dividing power”. Therefore, he argues that the theoretical rationale of the checks and balances system where the branches are competitive and simultaneously constrained to their legitimate authority, disregards considerations of possible conflicting policy goals and preferences between the executive and the legislature towards bureaucracies. It is due to the constitutional constraints that both branches have failed to achieve coordination of appointments and controls of the bureaucracy. In his opinion, appointment, removal and legislative powers²⁹ should be centralized “as is the case in many parliamentary systems” in order to address bureaucratic inefficiency. On the other hand, he acknowledges the constitutional barriers posed by the Appointments Clause and the judicial reluctance in *Buckley v. Valeo* to accept legislative appointment. Consequently, in our view, such a scheme for centralisation would require not only the amendment of the Constitution, but also would cancel the checks and balances system. Moreover, it is far from clear who will finally have the prerogative of the appointments power in the author’s opinion. Yet, what is really interesting in the discussion is that he leaves open the possibility that the authority might be allocated to Congress. Finally, we should emphasize that the issue is not central in his paper since the results from the application of his model proved that other counterbalancing factors in presidential systems might mitigate the impact of dividing power over bureaucratic performance.

iii. Independent agencies’ place in government: from the fourth branch back to the executive? The swaying jurisprudence of the U.S. Supreme Court in separation of powers cases, the emerging presidential dogma for a unitary administration in the U.S. and its theoretical legitimisation

Since the establishment of the Interstate Commerce Commission in 1887, the first independent agency in the U.S., analogous idiosyncratic governmental structures created by Congress still lack firm underpinnings in the constitutional text. Nevertheless, the theory of expertise, originally formulated by James Landis³⁰ and other theorists³¹ in the thirties, promoted the idea of the New Deal’s innovative organs with blended powers based upon the functionalist argumentation for independence, thus disregarding the formalist doctrine of the strict separation of powers. In 1935, the Supreme Court in *Humphrey’s Executor v. United States*³² implemented a functionalist approach to the principle of the separation of powers since it held that the President had no power of removal³³ at will over Humphrey, a member of the Federal Trade Commission (FTC), due to the distinctive character of the agency which performed both quasi-legislative and quasi-judicial functions³⁴. Nevertheless,

²⁹ Congress has the power to allocate resources to bureaucracies through legislative budgetary proposals. The President has only veto power over them.

³⁰ J. Landis, *The Administrative Process* 111, 1938.

³¹ John Willis, (1935), *Three Approaches to Administrative Law: the Judicial, the Conceptual, and the Functional*, *University of Toronto Law Journal*, Vol. 1, No. 1, pp. 53-81.

³² 295 U.S. 602 (1935).

³³ The U.S. Constitution contains no special clause or reference to the President’s power to remove from office.

³⁴ Excerpt from the Court’s judgement: “2. *This construction of the Act is confirmed by a consideration of the character of the Commission -- an independent, nonpartisan body of experts, charged with duties neither political nor executive, but predominantly quasi-judicial and quasi-legislative, and by the legislative history of the Act*” *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), available at: <http://supreme.justia.com/us/295/602/case.html>, date of access: 30.09.2010.

the Court did not overrule its judgement in *Myers v. United States*³⁵ since it restricted the illimitable removal power of the President over purely executive officers. Thus, the scope of the President's illimitable power of removal was linked to the functions exercised by the officials at issue, that is, whether they served as officials in executive departments or independent agencies. Moreover, the Court acknowledged that the Congress disposed of the necessary authority when creating such new agencies to

fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime. For it is quite evident that one who holds his office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will. . . .

In 1958, the Court once more supported the functional distinction, a prerequisite for the independent exercise of the officials' duties from the executive control, in *Wiener v. United States*³⁶, the second presidential removal case since *Humphrey's Executor*. This relaxed view of the Court towards a strict compartmentalisation of the powers was further elaborated by Justice Jackson in *Youngstone & Tube Co. v. Sawyer*³⁷ since "changing times" demanded more functional approaches to the issues at stake³⁸.

Nevertheless, the glorious days of functionalist enthusiasm, both in theory and jurisprudence, towards the so-called "fourth branch of government"³⁹ came to an end

³⁵ 272 U.S. 52 (1926).

³⁶ 357 U.S. 349 (1958). The Court stated reaffirming the functional precondition "*The most reliable factor for drawing an inference regarding the President's power of removal in our case is the nature of the function that Congress vested in the War Claims Commission*". *Id.* at 353. The Court clearly focused on the nature of the function, thus rejecting "*the claim that the President could remove a member of an adjudicatory body like the War Claims Commission*". *Id.* at 356. *Wiener v. United States*, available at: <http://supreme.justia.com/us/357/349/case.html>, date of access: 01.10.2010.

³⁷ 343 U.S. 640 (1952).

³⁸ Justice Jackson stated: "*The purpose of the Constitution was not only to grant power, but to keep it from getting out of hand. However, because the President does not enjoy unmentioned powers does not mean that the mentioned ones should be narrowed by a niggardly construction. Some clauses could be made almost unworkable, as well as immutable, by refusal to indulge some latitude of interpretation for changing times. I have heretofore, and do now, give to the enumerated powers the scope and elasticity afforded by what seem to be reasonable, practical implications, instead of the rigidity dictated by a doctrinaire textualism*". *Youngstone & Tube Co. v. Sawyer* 343 U.S. 640 (1952), available at: <http://supreme.justia.com/us/343/579/case.html>, date of access: 30.09.2010.

³⁹ *FTC v. Ruberoid Co.*, 343 U.S. 470, 487 (1952). Justice JACKSON, J., dissenting: "The constitutional independence of the administrative tribunal presupposes that it will perform the function of completing unfinished law. The rise of administrative bodies probably has been the most significant legal trend of the last century and perhaps more values today are affected by their decisions than by those of all the courts, review of administrative decisions apart. They also have begun to have important consequences on personal rights. Cf. *United States v. Spector*, 343 U.S. 169. They have become a veritable fourth branch of the Government, which has deranged our three-branch legal theories much as the concept of a fourth dimension unsettles our three-dimensional thinking. Courts have differed in assigning a place to these seemingly necessary bodies in our constitutional system. Administrative agencies have been called quasi-legislative, quasi-executive or quasi-judicial, as the occasion required, in order to validate their functions within the separation-of-powers scheme of the Constitution. The mere retreat to the qualifying "quasi" is implicit with confession that all recognized classifications have broken [343 U.S.470,488] down, and "quasi" is a smooth cover which we draw over our confusion as we might use a counterpane to conceal a disordered bed". Available at: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=343&invol=470>, date of access: 24.09.2010

in the eighties. Interestingly enough, the emerging theoretical trend, which substituted independence for considerations regarding the control of the independent agencies through accountability schemes and policy coordination, coincided with the advent of the Reagan Administration⁴⁰. As early as 1979, Bruff proposed that the presidential control should be expanded over independent agencies simply because the distinction between executive and independent agencies “*is belied by practice*”⁴¹. Therefore, all scholars who endorsed similar views based their argumentation for control on the substantial commonalities between executive and independent agencies in relation to function, internal structure, and procedure. Consequently, it was essential for them to deconstruct the myth of radical distinction between agencies since they both “*operate in a complex field of political forces, including pressures from the President, the relevant congressional committees, the regulated industries, and other interest groups*” (Foote cited in Miller, 1988). Such approaches clearly devaluated and doubted the substantial relevance of independence “*in light of the important powers retained by the President and the executive branch, including powers of appointment, budget and litigating authority*” (Morrison cited in Miller, 1988).

Stauss (1984) was among the scholars who early supported the theory of shared control over independent agencies. He argued that the constitutional lacuna in relation to the clear allocation of authority to bureaucracies locate them below the apex of the governmental structure which is constitutionally occupied by the Congress, the President, and the Supreme Court. He supported that, “*the theory of separation-of-powers breaks down when attempting to locate administrative and regulatory agencies within one of the three branches*”. Therefore, agencies, either executive or independent, simply join judicial, legislative, and executive functions, as prescribed in their statutes. Under such arrangements, political accountability, and the principle of checks and balances should be guaranteed and respected⁴².

Swire (1985) advocated the incorporation of independent agencies into the executive branch. He linked the promotion of agency independence to the rise of functionalism, and argued that expertise, the justificatory basis for the special status of independent agencies, underwent severe criticism. In his opinion, political critics for regulatory capture, reports concluding that the agencies had actually failed to attract expert personnel, the lack of impartiality in decision-making even in strictly technical matters, and the violation of the principle of the separation of functions within agencies led to the demise of the ideals of expertise and independence from political control. He supported that the rise of a new formalism in the jurisprudence of the United States Supreme Court strengthened tripartitism, namely, “*permission for only three branches created by the Constitution*”. He concluded that the new formalism

⁴⁰ Foote (1988) claimed that the emergence of fervent criticisms against the independence of agencies were a result of the political controversy between the opponents of the independent agencies who were affiliated with the Reagan Administration, and the defenders of these hybrid organs who could be classified as political liberals.

⁴¹ H. H. Bruff (1979), Presidential Power and Administrative Rulemaking, *Yale Law Journal*, 88, 451

⁴² Strauss stated that: “*The remainder of government was left undefined, in the expectation that congressional judgements about appropriate structure would serve so long as they observed the two prescriptive judgements embodied in the Constitution: that the work of law-administration be under the supervision of a unitary, politically accountable chief executive; and that the structures chosen permit, even encourage, the continuation of rivalries and tensions among the three named heads of government, in order that no one body become irreversibly dominant and thus threaten to deprive the people themselves of their voice and control*”.

could affect the incorporation of the independent agencies into the executive in four ways: i) the removal power of the President could be applied to independent agencies; ii) the litigating authority⁴³ of the independent agencies could be exclusively assigned to the President; iii) the President's power to issue binding executive orders⁴⁴ could be applied to independent agencies; and iv) the possibility for the legitimate creation of purely investigatory agencies outside the executive branch⁴⁵.

The new formalism endorsed by the judges of the Supreme Court was clearly reflected in *Buckley v. Valeo*, decided in 1976. In 1983, the Supreme Court in *INS v. Gadhha*⁴⁶ held unconstitutional the one-house legislative veto⁴⁷. Once more since

⁴³ In 1977, a study on federal regulation effectuated by the Senate Commission on governmental affairs contained a description of the supervision of the Justice Department over independent agency litigation (civil lawsuits brought by the agencies in courts). According to the study “*Three independent regulatory commissions – the Federal Energy Regulatory Commission (FERC), the Federal Trade Commission (FTC), and Securities and Exchange Commission (SEC) – have complete or near complete authority to initiate and conduct lawsuits independent of the Justice Department; five others – the Commodity Futures Trading Commission (CFTC), the Consumer Product Safety Commission (CPSC), the Federal Maritime Commission (FMC), the Federal Reserve Board (FRB), and the Interstate Commerce Commission (ICC) – have only partial or doubtful authority; and the remaining agencies (the Civil Aeronautics Board (CAB), the Federal Communications Commission (FCC), and the Nuclear Regulatory Commission (NRC) may not sue in their own name without the approval of the Attorney General*”. (cited in Swire, 1985). In relation to the litigation autonomy of independent agencies, Devins (1994) states that: “. . . Some independent agencies have no litigating authority. Moreover, with only three clear exceptions [the Interstate Commerce Commission (ICC), the Federal Trade Commission (FTC), and the Federal Election Commission (FEC)], Congress has left it to the Solicitor General to represent agency interests before the Supreme Court. . . . the current system does allow for a reasonable degree of cooperation between independent agencies and the Solicitor General. Independent agencies typically have the final say in litigation until a case reaches the Supreme Court. Moreover, the Solicitor General usually defends the agency's position when a case is before the Supreme Court. When he does not, the agency is often allowed to present its views through separate filings. Indeed, even when the Solicitor General refuses to seek certiorari at an independent agency's behest, the agency will typically have the opportunity to relitigate the issue in another case. In such cases, Supreme Court adjudication is merely delayed not foreclosed”. Nevertheless, Swire (1985) argues that the Supreme Court in *Buckley v. Valeo* cast doubt upon the constitutionality of the provisions regarding the allocation of litigation authority to independent agencies. The Court stated: “it is clear that all such suits, so far as the interests of the United States are concerned, are subject to the direction, and within the control of the Attorney General” *Buckley v. Valeo*, 424 U.S. 139 (1976) . . . “The Commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law, and it is to the President, and not to the Congress, that the Constitution entrusts the responsibility to “take Care that the Laws be faithfully executed”. *Buckley v. Valeo*, 424 U.S. 138 (1976), available at: <http://supreme.justia.com/us/424/1/case.html>, date of access: 02.10.2010.

⁴⁴ Presidents Reagan, Carter, and Ford issued executive orders according to which executive agencies were bound to submit cost/benefit analysis of their proposed regulations (Swire, 1985).

⁴⁵ See supra the judgement of the Supreme Court in *Buckley v. Valeo* over the permissibility of creating agencies which would only exercise powers of an investigative and informative nature as those assigned to the Committees of Congress.

⁴⁶ The Court had to decide upon the constitutionality of a provision according to which: “Section 244(c)(2) of the Immigration and Nationality Act (Act) authorizes either House of Congress, by resolution, to invalidate the decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General, to allow a particular deportable alien to remain in the United States”. *INS (Immigration and Naturalization Service) v. Chadha*, 462 U.S. 919 (1983), Syllabus, available at: <http://supreme.justia.com/us/462/919/case.html>, date of access: 02.10.2010.

⁴⁷ Since 1932, when the first legislative veto provision was enacted in federal legislation, Congress has included relevant provisions in more than 200 statutes. The usefulness and constitutionality of the arrangement has repeatedly been challenged by legal literature, Congress and Presidential statements. It

Buckley the judgement confirmed the Court's formalist approach to the doctrines of the separation of powers, and checks and balances. The Court judged that the legislative veto at issue was legislative in nature⁴⁸, and opined that Congress could not statutorily grant to itself a one-House legislative veto, thus violating the procedural rules as prescribed in the U.S. Constitution, namely, the bicameralism principle and the Presentment Clause⁴⁹. Moreover, the Court expressly promoted the principle of tripartitism⁵⁰, whereas it avoided the linguistic distinction between executive and administrative sorts of agencies. Instead, the term "administrative agency"⁵¹ was systematically used⁵², thus blurring the boundaries among agencies. As for Congress's pressures for the need to hold independent agencies accountable⁵³, the Court invoked two recent cases invalidating legislative vetoes of independent agency action. Nevertheless, Justice White, dissenting⁵⁴, supported that: "*It [the legislative veto] is*

has been defined as "*a clause in a statute, which says that a particular executive action will take effect only if Congress does not nullify it by resolution within a specified period of time*" (Breyer, 1984). Congress considered the measure as essential to controlling the executive.

⁴⁸ Justice Powell acknowledged the unconstitutionality of the provision despite the fact that he approved of its practical necessity. Nevertheless, contrary to the view of the majority, he argued that Congress's action was adjudicative in character, and thus violated the anti-aggrandizement principle.

⁴⁹ According to the Presentment Clause of the U.S. Constitution (Article I, Section 7, Clauses 2 and 3): "*Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States . . . Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States*".

⁵⁰ "*The Constitution sought to divide the delegated powers of the new Federal Government into three defined categories, Legislative, Executive, and Judicial, to assure, as nearly as possible, that each branch of government would confine itself to its assigned responsibility. The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted. Although not "hermetically" sealed from one another, Buckley v. Valeo, 424 U.S. at 424 U.S. 121, the powers delegated to the three Branches are functionally identifiable. When any Branch acts, it is presumptively exercising the power the Constitution has delegated to it. See J. W. Hampton & Co. v. United States, 276 U.S. 394, 276 U.S. 406 (1928). When the Executive acts, he presumptively acts in an executive or administrative capacity as defined in Art. II. And when, as here Disagreement with the Attorney General's decision on Chadha's deportation -- that is, Congress' decision to deport Chadha -- no less than Congress' original choice to delegate to the Attorney General the authority to make that decision, involves determinations of policy that Congress can implement in only one way; bicameral passage followed by presentment to the President. Congress must abide by its delegation of authority until that delegation is legislatively altered or revoked*". *INS v. Ghadha* 462 U.S. at 954 & 955 (1983), <http://supreme.justia.com/us/462/919/case.html>, date of access :02.10.2010

⁵¹ According to Swire (1985) the term: "Administrative agency" has historically been synonymous with "independent agency".

⁵² Contrary to the majority of the Court, Justice White, dissenting, made a clear distinction among agencies, and systematically used the terms "executive department" and "independent agency".

⁵³ "*Indeed it is ironic that Congressional amici attempt to place great significance on the Commission's independence and on the need for having a politically accountable check on the agency's decision. The fundamental justification for making agencies independent is that. . . political interference is undesirable*" *Consumer Energy Council v. FERC*, 673 F. 2d 425, 472 (D.C. Cir. 1982).

⁵⁴ "*For all these reasons, the apparent sweep of the Court's decision today is regrettable. The Court's Art. I analysis appears to invalidate all legislative vetoes, irrespective of form or subject. Because the legislative veto is commonly found as a check upon rulemaking by administrative agencies and upon broad-based policy decisions of the Executive Branch, it is particularly unfortunate that the Court reaches its decision in cases involving the exercise of a veto over deportation decisions regarding*

an important, if not indispensable, political invention that allows the President and Congress to resolve major constitutional and policy differences, assures the accountability of independent regulatory agencies, and preserves Congress' control over lawmaking. . . In the trade regulation area, the veto preserved congressional authority over the Federal Trade Commission's broad mandate to make rules to prevent businesses from engaging in "unfair or deceptive acts or practices in commerce" (*INS v. Ghadha*, Page 462 U. S. 972 & 973, (1983). Consequently, the Court reached its decision based upon formalist criteria, namely, the constraints of the Constitution. Moreover, it rejected any linguistic and substantial distinction between executive and independent agencies.

*Morrison v. Olson*⁵⁵, was the third case in the history of the U.S. Supreme Court dealing with the scope of the President's removal power. The Court's judgement could be characterized as a dynamic comeback to functionalism. Nevertheless, it would not last. According to the Court, despite the fact that the functions exercised by the independent counsel, an office established by the Ethics in Government Act in 1978, were executive, the removal power of the President, through the Attorney General, was not illimitable. Hence, the distinction between the functions of the officials at issue, as defined in *Myers* and *Humphrey's Executor*, was not applicable since "*the real question is whether the removal restrictions are of such a nature that they impede the President's ability to perform his constitutional duty, and the functions of the officials in question must be analysed in that light*". In *Morrison*, the Court rather set a common removal power framework between officials of the executive branch and those of independent agencies in the sense that Congress may statutorily "impose a good cause-type restriction" on the President's or another appointing authority's⁵⁶ power to remove (Tatelman, 2010). In other words, the Court seemed to accept removal limitations in certain offices of the executive in order to guarantee the necessary independence of the officials in the discharge of their duties. Nevertheless, the opinion of the Court equally implied that Congress had no such discretion in cases where limits on the President's removal power would be constitutionally impermissible.

particular individuals. Courts should always be wary of striking statutes as unconstitutional; to strike an entire class of statutes based on consideration of a somewhat atypical and more readily indictable exemplar of the class is irresponsible. It was for cases such as these that Justice Brandeis wrote: "The Court has frequently called attention to the 'great gravity and delicacy' of its function in passing upon the validity of an act of Congress. . ." *INS v. Ghadha* 462 U. S. 974 (1983), <http://supreme.justia.com/us/462/919/case.html>, date of access: 02.10.2010

⁵⁵ In the aftermath of the Watergate case, Congress enacted the Ethics in Government Act (1978) which provided for the appointment of an independent counsel to investigate and, if appropriate, prosecute certain high ranking Government officials for violations of federal criminal laws. These officials include the President, the Vice-President, cabinet officers, high-level officials in the Executive Office of the President, senior Assistant Attorneys General and Department of Justice personnel, the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue, as well as senior, national level officers in the President's principal campaign election committee (see 28 U.S.C. Section 591(b) (1) – (8) (1994). According to Section 596(a)(1) of the Act the counsel could be removed by the Attorney General "*only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties*". *Morrison v. Olson*, 487 U.S. 654 (1988), available at: <http://supreme.justia.com/us/487/654/case.html>, date of access: 02.10.2010.

⁵⁶ Inferior officers may either be appointed by the President, the Courts of Law, or the Heads of Departments.

On the other hand, the Court's functionalist approach raised criticisms challenging the constitutionality of the Act's appointments clause in particular, and, generally, the Act itself⁵⁷. The Act provided that a "Special Division" of the United States Court of Appeals for the District of Columbia should appoint the independent counsel following a specific request submitted to the Court by the Attorney General. The Court concluded that the creation of the post of an independent counsel with prosecutorial power outside of the executive branch in order to avoid conflict of interest, and the allocation of the appointment authority to a court were not unconstitutional. More specifically, the Court based the constitutionality of the Act's appointments clause on a functionalist balancing test that would classify the independent counsel either as a principal officer or as an inferior officer as prescribed in the Appointments Clause of the Constitution⁵⁸. To this end, the Court identified four factors that should be taken into account in the classification process, that is, the officer's removability by a superior executive branch official, the scope of the officer's duties, the scope of the officer's jurisdictions, and the tenure of office. The judges found that the independent counsel was an inferior officer⁵⁹, and thus held the Appointments Clause constitutional. The functionalist four-factor test and the relevant argumentation were rather misleading, and the Court reversed the we-know-it-when-we-see-it approach in *Edmond v. United States*⁶⁰ in the mid-1990s.

Formalism in *Edmond v. United States* was reconstituted. Justice Scalia, who authored the opinion, stressed the significance of the text of the Appointments Clause of the Constitution⁶¹, on the one hand, and deconstructed the functionalist logic in *Morrison v. Olson*, on the other. He applied a straightforward test, that is, the one-factor binary test in order to classify the judges. More specifically, the test was based on a single factor, that is, supervision, which was actually a combination of *Morrison*'s first two factors – removability, and scope of duties. The Court concluded that the judges were "inferior Officers" since they were supervised by the Judge Advocate General and the Court of Appeals for the Armed Forces, on the one hand, and the Judge Advocate

⁵⁷ Apart from innumerable commentators who have criticised the Court's judgement since, Justice Scalia, the only dissenting judge, stated: "By its shortsighted action today, I fear the Court has permanently encumbered the Republic with an institution that will do it great harm". *Morrison v. Olson*, 487 U.S. 654, 733 (1988), available at: <http://supreme.justia.com/us/487/654/case.html>, date of access: 02.10.2010.

⁵⁸ If it were proved by the four-factor test that the independent counsel was a principal officer, the Act's Appointments Clause should be held unconstitutional since the independent counsel should be nominated by the President and confirmed by the Senate, that is, according to the Appointments Clause of Article II of the Constitution.

⁵⁹ The Court stated: "We need not attempt here to decide exactly where the line falls between the two types of officers, because in our view [the independent counsel] clearly falls on the "inferior officer" side of that line". *Morrison v. Olson*, 487 U.S. 671 (1988), available at: <http://supreme.justia.com/us/487/654/case.html>, date of access: 02.10.2010.

⁶⁰ 520 U.S. 651 (1997). The petitioners challenged the validity of the constitution of the Coast Guard Court of Criminal Appeals, an intermediate court within the military justice system. The Court had to decide upon the officer status of two civilian judges of the Appeals Court appointed by the Secretary of Transportation. Available at: <http://supreme.justia.com/us/520/651/index.html>, date of access: 02.10.2010

⁶¹ He stressed that the Appointments Clause was a "significant structural safeguard of the constitutional scheme" which assured "a higher quality of appointments" and ensured "public accountability". *Edmond v. United States* 520 U.S. 651 (1997). Available at: <http://supreme.justia.com/us/520/651/index.html>, date of access: 02.10.2010

General had removal power without cause, on the other. Moreover, the Appeals Court decisions may be appealed to the Court of Appeals for the Armed Forces. Consequently, the clause did not violate Article II, section 2 of the Constitution “*Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments*”. Consequently, if the one-factor test were applied in *Morrison*, that is, supervision⁶², the Appointments Clause would be held unconstitutional since the independent counsel would have been classified as a principal officer⁶³.

Congress’s considerations for the necessity to enact an independent counsel statute led to the violation of the principle of the separation of powers through the removal, appointment, and operation clauses⁶⁴. The Supreme Court, in turn, approached the case through functionalism in order to hold the Act constitutional. Nevertheless, the provisions of the Ethics in Government Act regarding the office of the independent counsel expired in 1999 since there was no congressional support for its continuation, thus confirming Justice Scalia’s statement that the institution would do harm to the Republic⁶⁵.

The invigoration of the executive as formulated in theory and jurisprudence in the eighties was rather harmonized with the ideal of the “unitary executive”⁶⁶ envisioned

⁶² “Whether one is an “inferior” officer depends on whether he has a superior. It is not enough that other officers may be identified who formally maintain a higher rank, or possess responsibilities of a greater magnitude. If that were the intention, the Constitution might have used the phrase “lesser officer”. Rather, in the context of a clause designed to preserve political accountability relative to important government assignments, we think it evident that “inferior officers” are officers whose work is directed and supervised at some level by others who were appointed by presidential nomination with the advice and consent of the Senate”. *Edmond v. United States* 520 U.S. 651 (1997). Available at: <http://supreme.justia.com/us/520/651/index.html>, date of access: 02.10.2010

⁶³ Regarding removability, Justice Scalia dissenting in *Morrison* stated: “if [the independent counsel] were removable at will by the Attorney General, then she would be subordinate to him and thus properly designated as inferior . . .” *Morrison v. Olson*, 487 U.S. 716 (1988), available at: <http://supreme.justia.com/us/487/654/case.html>, date of access: 02.10.2010.

⁶⁴ Bravin (1998) supported that: “. . .an independent office composed of commissioners subject to the nomination and confirmation process could better achieve the practical objective of providing unbiased prosecutors without threatening the broader liberty and accountability principles embodied in the Constitution”.

⁶⁵ Justice Scalia, dissenting, expressed his deep concern in *Morrison*: “What if [the judges appointing an independent counsel] are politically partisan, . . . and select a prosecutor antagonistic to the administration . . .?”. Regarding the issue of accountability he argued that “if there is anything wrong with [a] selection, there is effectively no one to blame”. *Morrison v. Olson*, 487 U.S. (1988), available at: <http://supreme.justia.com/us/487/654/case.html>, date of access: 02.10.2010.

⁶⁶ Theories of executive power, that is, separation of powers and presidential authority analysis are divided in two camps in the U.S.: the “traditional view”, and the “unitary theory of the executive”. Justice Kagan’s 2001 Harvard Law Review article *Presidential Administration* suggests a third way in theory. These theories discuss “the scope of presidential power and Congress’s control with respect to the powers and duties of executive departments and agencies” (Tatelman, 2010). Tatelman (2010) describes the theories as follows: “Adherents to the “traditional” view of separation of powers and presidential authority generally assert that Congress possesses the constitutional authority to vest discretionary decision-making authority directly in the heads of the departments and agencies that it creates. Thus, while traditionalists accept that the President can supervise and guide agency policymaking, they argue that where Congress has, by statute, specifically vested the decision-making authority in the agency head, the President cannot “go so far as to displace the agency head’s discretion to make decisions vested in that officer by law. . . In contrast to traditionalists, advocates of the “unitary theory of the executive” or “unitarians” generally ascribe to a view of presidential

by the Reagan Administration. In practice, this trend for presidential control of all governmental agencies deeply affected future administration in the U.S. Reagan implemented three methods in order to centralize power in the presidency, and thus coordinate policymaking. First, signing statements⁶⁷ were considered as a safe way to block congressional influence over the administrative apparatus, and thus their issue “*was crucial for the administration to give the executive branch direction top-down on inevitable interpretation*” (Kelley and Marshall cited in Devins and Lewis, 2008). Second, the regulatory review initiative through Executive Orders enabled “*the president and his principal aides to exercise a much greater degree of influence over executive branch regulation than had existed previously*” (Eads and Fix, cited in Devins and Lewis, 2008). Third, the appointment of agency heads was based upon the “*ideological consistency and intensity*” of the nominees⁶⁸ (Kirschten, cited in Devins and Lewis, 2008). Nevertheless, independent agencies were exempted from the Office of Management and Budget (OMB) regulatory review, a decision that seems to have taken into consideration political and legal barriers. Thus, the control of independent agencies could only be achieved through appointments, and judicial filings. Since then, Presidents⁶⁹ have used ideological loyalty as the basic criterion for nominations⁷⁰, thus keeping the tradition of the Reagan Administration (Flynn, 2000).

authority that has three prongs: First, unitarians often argue that the President has a constitutionally based duty to provide policy direction to officers of the United States; second, unitarians claim that the President possesses the unfettered power to remove from office any officer who does not comply with the President's policy directives; and finally, unitarians generally assert that Congress cannot constitutionally assign executive powers to agencies or other entities that are independent or outside the scope of the President's control”. Elena Kagan, who served as President Clinton's Associate White House Counsel and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council (1995-1999), describes in her article the new administrative profile President Clinton adopted during his mandate. This new model of administration was actually a sophisticated evolution of the Reagan administrative tradition. Tatelman (2010) states: “*Professor Kagan's article posits that it was President Clinton's “articulation and use of directive authority over regulatory agencies, as well as his assertion of personal ownership over regulatory product” that led to the development of a new and distinctive form of administrative control. This new form of administrative control includes two parts. First, the use of “directive authority,” which Kagan defines as “commands to executive branch officials to take specified actions within their statutorily delegated discretion.” The second component is what Professor Kagan termed “Presidential ownership,” and includes, for example, the public announcement of many regulatory decisions and accomplishments directly by the White House rather than by the responsible agency officials. . . According to Professor Kagan, at the core of the legal framework for “presidential administration” is a re-conceptualization of how congressional delegations are to be interpreted. Specifically, under her theory of “presidential administration,” delegations by Congress granting discretion to executive branch officials should be read and interpreted as leaving ultimate decision-making authority with the President. Similar delegations to independent agencies, however, are not to be interpreted in the same manner, and, thus, Congress can retain oversight and control over the decisions of those entities*”.

⁶⁷ “A signing statement is a written pronouncement issued by the President of the United States upon the signing of a bill into law. They are usually printed along with the bill in the United States Code Congressional and Administrative News (USCCAN)”. Source Wikipedia, available at: http://en.wikipedia.org/wiki/Signing_statement, date of access: 03.10.2010.

⁶⁸ The statutes of independent agencies contain clauses providing for partisan requirements.

⁶⁹ Moe (cited in Devins and Lewis, 2008) states: “*Future Presidents presumably would have every reason to learn from and build upon the Reagan example in seeking to enhance their own institutional capacities for leadership*”.

⁷⁰ “*The one constant in Clinton's appointments (including to federal judgeships) was relatively strong confidence in the nominee's fidelity to the president's agenda*” (Gerhardt cited in Devins and Lewis, 2008).

Yet, the increasing ideological gap between Democrats and Republicans shortly before Ronald Reagan assumed office, and the subsequent party polarization in Congress, made the confirmation process of the presidential nominees conflict seeking rather than conflict avoiding. Moreover, periods of divided government, which became the rule rather than the exception in the past fifty years, the multiple membership of independent agencies, and staggered terms of office seem to have complicated the situation. Nevertheless, even those considerable barriers were overcome since ideology-loyalty was primordial. Therefore, the nomination of party loyalists –so precious now for both camps- to slots held by opposition-party members made opposition senators devise various strategies⁷¹ to put pressure on the President. As a result, the predominance of ideology in appointment politics affected agency decision-making (Wood and Waterman, 1991). Ho (cited in Devins and Lewis, 2008), in his study of Federal Communications Commission (FCC) voting patterns from 1965 to 2006, concluded that “*commissioner partisan affiliation exhibits robust and large predictive power over votes, even holding constant the party of the appointing president. This [finding] . . . rejects the notion that expertise exclusively drives decision-making*”.

The invigoration of the executive through the “unitary” ideal also affected litigation conflicts between the independent agencies and the Solicitor General’s⁷² office. Presidential control over the agencies through appointments, the dogma that the Solicitor General’s office should represent the official view of the government rather than the agency’s position in courts, and direct political pressure put an end to public disagreements, conflicts, and competing filings (Devins and Lewis, 2008).

iv. The principle of the separation of powers and independent agencies’ place in government in Greek theory: new incarnations of functionalism

Rittich (2005) argues that “*functionalism is now being used to transform the state and dismantle many of its institutions*”. Irrespective of whether someone disagrees with the statement on substance or perceives it as exaggerated, functionalist approaches have prevailed in Greek theory since the end of the eighties. The emergence of independent authorities in the Greek legal order triggered the discussion around the dilemma of whether to consider these organs as part of the executive or a fourth branch of government. It was a debate that reiterated the one that had taken place in the U.S. in the thirties, albeit opening new horizons to functionalist argumentation.

Nevertheless, as Dimoulis (2002) claims “*the discussion ostensibly doubts tripartitism. In substance, such an approach seeks to question state monopoly over*

⁷¹ According to the statement of an official of both Bush administrations: “*Nominees are now treated like pieces of legislation, facing the full array of parliamentary weapons such as delayed hearings or floor votes, filibusters and so-called “holds”* (Andres, cited in Devins and Lewis, 2008). Regarding the practice of “batching”, Devins and Lewis (2008) state: “*Opposition-party success stems from the fact that the President often makes multiple nominations to the same commission simultaneously because some commissioners decide not to complete terms at the very time that other commissioners’ terms expire. This situation allows for “batching”: the opposition party demands that the President nominate a party loyalist to an opposition-party slot in exchange for the opposition party supporting the President’s same-party nominations. For better or worse, batching has become a common tactic in the modern appointment process*”.

⁷² The United States Solicitor General is appointed to represent the Government of the United States before the Supreme Court of the United States.

certain areas with a view to give the impression that we have entered a period of “extra governmental-consensual” resolution of conflicts based upon the schemata of the “night watchman state”⁷³ and “multicentrism”⁷⁴ of power. Thus, there is an attempt to veil the unity of state power – and, strictly speaking, the autarchic character of imposing its decisions- through the ideological constructs of pluralism and independent functioning of administrative organs, something that is considered as “a product of the eternal movement of the market” . . . The debate around independent authorities is inspired by the legal neo-liberalism proving that the attempts to change the schema of the separation of powers are instigated by sociopolitical views that struggle to be imposed upon a predated legal framework”.

As a result, the functionalism endorsed by Greek scholars of constitutional law becomes rather politicized. It moves a step further from the functionalist argument that the need for expert decision-making and impartiality justified the creation of independent agencies, thus proposing *“a separation of powers doctrine premised on flexibility, practicality, and judicial reluctance to enforce the doctrine based on isolated parts of the Constitution”* (Swire, 1985). In other words, the argumentation goes beyond interpretative considerations for the Constitution. The scholars’ approach is oriented towards a proposal for the reconceptualisation of the separation of powers principle in a multicentric landscape (Oikonomou, 1999; Voutsakis, 2000) or even a deconstruction of the principle itself since *“it cannot be applied to modern reality”*, that is, *“neither does it fit to the institutional reality of the country, nor to the legal nature of the independent authorities”* (Kamtsidou, 1999). In their view, independent authorities should be integrated into *“the innovative category of regulatory authorities”* which *“are organs that undertake the exercise of the supremacy in the field of their competence”* (Kamtsidou, 1999). Nevertheless, criticism was raised. Dimoulis (2002) claimed that *“the legal-political evaluation of the author as to what is reality of the country, what is just, and who has the right to exercise the political power becomes the criterion for the formulation of state organization while rejecting the separation of powers as “inapplicable”*.

A minority of scholars and Greek jurisprudence⁷⁵ support the view that independent authorities are part of the executive branch. Akalides and Moschopoulos (2008), argue that *“we should take into consideration that the principle of the separation of powers, which aims at the mutual control of the functions of the state, is relevant. An organ may exercise different functions from those pertaining to the power it belongs to”⁷⁶ (e.g. Parliament is an organ of the legislative power which also exercises judicial functions⁷⁷). Consequently, an organ, even if it exercises functions falling within the*

⁷³ A night watchman state or minimal state is a term used in political philosophy to describe a form of government –the minarchist system - where the government's responsibilities are so minimal that they cannot be reduced much further without becoming a form of anarchy.

⁷⁴ The term refers to the development of multiple and autonomous centres of power.

⁷⁵ The Greek jurisprudence supported this view in the nineties. Relevant decisions of the Greek courts: Council of State (E’ Division/Section) 944/1999, Council of State (D’ Division/Section) 2543/1999, Athens Administrative Court of Appeals 4431/1998.

⁷⁶ He refers to the system of the intersection of functions according to which, through a special constitutional provision, a competence, extrinsic to the main mission of an organ –namely, its judicial, executive or legislative nature- is conceded to that organ.

⁷⁷ Article 68, par. 2 reads as follows: “2. Parliament shall set up investigation committees from among its members by a resolution supported by two-fifths of the total number of members, on the proposal of one-fifth of the total number of members. A parliamentary resolution adopted by an absolute majority

scope of more than one power should be integrated into one power only. Independent agencies are not part of the legislative branch since their rulemaking competence is restricted and delegated by the legislative power. Moreover, independent authorities are subject to parliamentary review. Neither are they part of the judicial branch since their enforceable acts are subject to judicial review. Consequently, they do not constitute a fourth branch of government since article 26 of the Constitution⁷⁸ cannot be revised⁷⁹. They are part of the executive branch for the following reasons: i) since the enforceable acts of the independent authorities are subject to judicial review, these acts can only be administrative according to article 95 par. 1 of the Constitution⁸⁰, and ii) it is not incidental that all relevant provisions regarding the independent authorities are contained in the sixth section of the Constitution (101-105) entitled “Administration” which pertains to the third part (26-105) entitled “Organization of the Administration”.

The theoretical discussion over the appointments clauses of the members of the independent authorities and their implications for the separation of powers was of prime interest before the revision of the Constitution in 2001. This theoretical debate was triggered by the decision 944/1999 of the Council of State -which will be analysed later on-, whereas there were no conflicting views on the part of the scholars who participated in this . . . monologue. The Greek scholars promoted the idea that the power of the selection of the members of the independent authorities should be assigned to Parliament (Kamtsidou, 1999; Oikonomou, 1999; Iliadou, 2000). They rather sought to legitimize the view that vesting Parliament with the authority to nominate and select the members of those authorities was not against the doctrine of the separation of powers.

Kamtsidou (1999), acknowledged that *“within the classical liberal democracies Parliament abstains from the selection of the officials in public administration. Such a practice corresponds to the traditional structure of state machineries, and coincides with the archaic version of parliamentarianism. Within the context of this system, the limitation and the counterbalance of the political power are achieved through its division in various state organs, thus expressing different social forces. Thus, the executive retains the monopoly in the selection of the administrative employees since the latter act under the orders and with the political responsibility of the government which, in turn, assumes the political responsibility. As a counterbalance, Parliament has the possibility to check on the government in relation to the work of the public services, and hold it responsible on a personal or collective basis”*. In her opinion, the development of the phenomenon of the parties, and the political homogeneity between

of the total number of members shall be required in order to set up investigation committees on matters related to foreign policy and national defence. Details pertaining to the composition and operation of such committees shall be provided by the Standing Orders”.

⁷⁸ “Article 26: 1. The legislative powers shall be exercised by the Parliament and the President of the Republic. 2. The executive powers shall be exercised by the President of the Republic and the Government. 3. The judicial powers shall be exercised by courts of law, the decisions of which shall be executed in the name of the Greek People”.

⁷⁹ “Article 110: 1. The provisions of the Constitution shall be subject to revision with the exception of those which determine the form of government as a Parliamentary Republic and those of articles 2 paragraph 1, 4 paragraphs 1, 4 and 7, 5 paragraphs 1 and 3, 13 paragraph 1, and 26”.

⁸⁰ According to article Article 95, par. 1 of the Constitution: “The jurisdiction of the Supreme Administrative Court (Council of State) pertains mainly to a) The annulment upon petition of enforceable acts of the administrative authorities for excess of power or violation of the law”.

the government and the majority in parliament actually annulled that old dogma. Consequently, *“the separation of powers does not impose the isolation, but rather enhances the cooperation and the mutual counterbalance between the executive and the legislative function”*. Moreover, she claimed that article 26 of the Constitution should not be read in a strict manner since the three powers, the executive, the legislative, the judicial, are not substantially distinct state functions. On the other hand, she stressed that the principle of the intersection of functions, which was not contrary to the Constitution, relativized the organic dimension of the separation of powers.

Another important argument applied in this theoretical legitimizing process of the role of Parliament in the selection mechanism was based on the democratic principle of the popular sovereignty (Kamtsidou, 1999; Iliadou, 2000). According to this view, the popular Assembly expresses and reflects the popular will, and thus the link of the administrative authorities with the representative democratic institutions guarantees the necessary consensus among the relevant actors (Kamtsidou, 1999).

v. The opinion of the Advocate General Mazak in Case-518/07 of the European Court of Justice and the independent authorities’ place in government: back to the executive?

On March 9, 2010, the European Court of Justice (Grand Chamber) ruled⁸¹ that the Federal Republic of Germany *“failed to fulfil its obligations under the second subparagraph of Article 28(1) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data”* since the authorities *“responsible for monitoring the processing of personal data by non-public bodies and undertakings governed by public law which compete on the market (öffentlich-rechtliche Wettbewerbsunternehmen) in the different Länder”* were *“subject to State scrutiny”*⁸². Thus, the Court opined that the Federal Republic of Germany incorrectly transposed *“the requirement that those authorities perform their functions ‘with complete independence’*”.

⁸¹ Official Journal the European Union, C 113/3, 1.5.2010, Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:113:0003:0004:EN:PDF>. Full text of the judgement of the Court available at: <http://curia.europa.eu/jurisp/cgi-bin/gettext.pl?where=&lang=en&num=79899690C19070518&doc=T&ouvert=T&seance=ARRET>, date of access: 06.10.2010.

⁸² According to points 9 and 10 of the text of the judgement: *“9. The processing of data by public bodies is supervised, at Federal level, by the Federal representative responsible for the protection of personal data and freedom of information and, at regional level, by the representatives responsible for the protection of regional data. Those representatives are solely responsible to their respective parliament and are not normally subject to any scrutiny, instruction or other influence from the public bodies which are the subjects of their supervision. 10. On the other hand, the organisation of the authorities responsible for supervising the processing of data by non-public bodies varies among the Lander. However, all the laws at Lander level expressly subject those supervisory authorities to State scrutiny”*.

It was the Commission⁸³ that had requested the Court to decide on the infringement of the second subparagraph of Article 28(1) of Directive 95/46/EC. The interested parties had to interpret what was the context of the requirement of the Directive “*with complete independence*”. The Commission and the European Data Protection Supervisor (EDPS) supported a broad interpretation of the wording of the provision according to which “*the term “independence”, in relation to a public body, normally means a status which ensures that the body concerned can act completely freely, without taking any instructions or being put under any pressure*”. Moreover, “*the concept of independence is complemented by the adjective “complete”, which implies a decision-making power independent of any direct or indirect influence on the supervisory authority. For that purpose they must remain free from any external influence, including the direct or indirect influence of the State or the Länder, and not of the influence only of the supervised bodies*”. On the contrary, the Federal Republic of Germany proposed a narrow interpretation of the wording arguing that “*the term concerns the functional independence of those authorities, meaning their institutional independence in respect of organisational matters solely in relation to the entities that are being supervised*”.

Interestingly enough, Advocate General Mazak in his opinion delivered on October 22, 2009 partly supported the views of the Federal Republic of Germany, and extended his arguments. First, he referred to the term “independence” which “*is frequently used, not only in relation to the public authorities but also in relation to particular groups of persons who are required to act with independence in exercising their functions within the social system or subsystem*”. Nevertheless, contrary to the statement of the European Data Protection Supervisor, he expressly rejected the connection of the term with the independence of the courts as derived from case-law of the Court. In his view, “*those criteria cannot be used in the present case, since the Court when it laid them down defined the judiciary in relation to the other branches of the State. In the present case, we are concerned with the supervisory authorities and there is no denying that those authorities are administrative structures and, by dint of this, that they belong in the sphere of the executive. Therefore, the requirement that they should act with complete independence in exercising their functions must be defined only in the context of the executive and not in relation to the other branches of the State*”. He stressed that the directive neither required that the authorities should be hierarchically separated from the administrative system nor prevented such an arrangement. Moreover he explained that “*independence should not be confused with the lack of opportunity for supervision. In my view, State oversight is one of the ways in which monitoring may be carried out. . . If it were to emerge that the data protection supervisory authorities do not act in a rational, lawful and proportionate manner, protection of the rights of individuals and, consequently, achievement of the objective of directive 95/46 would be jeopardized*⁸⁴”. In other words, he supported the

⁸³ The European Commission acted pursuant to Article 226 EC for failure of a member state to fulfil its obligations.

⁸⁴ The full argumentation in relation to the compatibility of State oversight with the requirement of complete independence of the authorities in the exercise of their functions, is deployed in point 30 of the Advocate’s General opinion: “*In order to answer the question whether State oversight is compatible with the requirement that the data protection supervisory authorities must act with complete independence in the exercise of their functions, it is important to take into consideration the purpose of such oversight. It is apparent from the description of the oversight given by the Commission that such oversight is designed to establish whether the monitoring carried out by the data protection supervisory authorities is rational, lawful and proportionate. From that point of view, it seems to me*

view that State oversight did not prevent the supervisory authorities from exercising their functions in complete independence. On the contrary, he claimed that it was a necessary means to examine whether the authorities themselves complied with the fulfillment of the objective of the Directive, that is, compliance with strict law enforcement. In practice, the argumentation, indirectly, brings the discussion back to the democratic legitimacy of the authorities, namely, the political responsibility of the government⁸⁵, a doctrine which has prevailed not only in the theoretical debate, but also served as a legitimizing feature of the political orientation in the U.S. since the eighties. Finally, the Advocate General argued that the Commission only presumed that “*supervision hinders the data protection supervisory authorities in exercising their functions with complete independence*”, thus without satisfying “*the burden of proof imposed on it*”⁸⁶.

Interestingly enough, the judgement of the Court does not make any direct link between the independence of the supervisory authorities and the necessity of allocating the authority over the appointment of their members to Parliament. It rather adopts a compromising and discrete stance on the issue compared to the radical position of the Greek scholars for the exclusive role of Parliament in the selection mechanism. Thus, the judgement states: “*Admittedly, the absence of any parliamentary influence over those authorities is inconceivable. However, it should be pointed out that Directive 95/46 in no way makes such an absence of any parliamentary influence obligatory for the Member States. Thus, first, the management of the supervisory authorities may be appointed by the parliament or the government*”.

We could argue that the unwillingness of the European Court to openly support the view that the exclusive authority for the appointment of the members of the supervisory authorities should be allocated to parliament might possibly insinuate an effort to avoid interfering with the principle of the separation of powers in different member states of the European Union. However, pressure for exclusive legislative appointment would be dictated by the International Governmental Organisations through the binding commitments for their member states.

that State oversight contributes to the functioning of the system of monitoring the application of the provisions adopted pursuant to Directive 95/46. If it were to emerge that the data protection supervisory authorities do not act in a rational, lawful and proportionate manner, protection of the rights of individuals and, consequently, achievement of the objective of Directive 95/46 would be jeopardised”.

⁸⁵ The Court rejected the democratic principle argument, and emphasized that data protection supervisory authorities could function outside the classic hierarchical administration since control and accountability are guaranteed through judicial review and annual reports to Parliament.

⁸⁶ According to points 33 and 34 of the General Advocate’s opinion: “*According to the case-law of the Court, in an action for failure to fulfil obligations brought under article 226 EC it is for the Commission to prove that the obligation has not been fulfilled without being able to rely on any presumption . . . [The Commission] has not proved either the failure of the system of oversight nor the existence of a consistent practice on the part of the overseeing authorities of abusing their powers and thus hindering the data protection supervisory authorities in the exercise of their functions with complete independence*”.

vi. Functionalism as reflected in commitments to International Governmental Organizations

The Greek scholars' functionalist views are further legitimized by the commitments to International Governmental Organizations supporting the appointment of the members of human rights independent authorities exclusively by Parliament by a qualified majority of votes. The Council of Europe's Recommendation 1615 (2003) regarding the institution of the Ombudsman links the effective operation of the institution, among others, to legislative appointment⁸⁷. Dean Gottehrer,⁸⁸ an international Ombudsman consultant, in his briefing on the Ombudsman institution in the countries of the Organization for Security and Cooperation in Europe (OSCE) that took place in Washington in 1998, suggested that the Ombudsman should be appointed by parliament⁸⁹. Gottehrer in his text on the "Ombudsman Legislative Resource Document" quotes, among others, the model provisions accompanied by commentaries on the justificatory basis regarding the appointment process for the Office of the Ombudsman⁹⁰.

⁸⁷ Paragraph 7, point iii. of the Recommendation 1615 (2003) reads as follows: "*iii. exclusive and transparent procedures for appointment and dismissal by parliament by a qualified majority of votes sufficiently large as to imply support from parties outside government, according to strict criteria which unquestionably establish the ombudsman as a suitably qualified and experienced individual of high moral standing and political independence, for renewable mandates at least equal in duration to the parliamentary term of office;*". Source: The official website of the Council of Europe, available at: <http://assembly.coe.int/documents/adoptedtext/TA03/EREC1615.htm>, date of access: 27.01.2012.

⁸⁸ At the time the briefing on the Ombudsmen in the OSCE took place in December 2, 1998 in Washington DC, he was consultant on ombudsmen in human rights institutions for the United Nations Development Programme, the UNDP, the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe, and the United States Information Agency. He had also served as President of the United States Ombudsmen's Association from 1993 to 1995. He was also author of the "Ombudsmen and Human Rights Institutions in OSCE Participating States" 1998 report for the OSCE, and the International Ombudsmen Legislative Reference document for the International Ombudsmen Institute.

⁸⁹ Gottehrer D., The Ombudsman in the OSCE: An American Perspective, December 2, Briefing of the Commission on Security and Cooperation in Europe, Washington 2002, available at: http://csce.gov/index.cfm?FuseAction=UserGroups.Home&ContentRecord_id=164&ContentType=B&ContentRecordType=B&UserGroup_id=62&Subaction=ByDate&CFID=24766971&CFTOKEN=13551851, date of access: 27.01.2012.

⁹⁰ An abstract from the text referring to the appointment process and its justificatory basis follows: "Principle 2. The Ombudsman is an officer of the legislative branch of government.

Sample language: The Ombudsman is appointed by the legislative body to exercise the powers and perform the duties assigned under this law.

Commentary: The Ombudsman's independence is strengthened by being an officer of the legislative body. Ombudsmen generally do not investigate those who appoint them because of the conflict inherent in such an arrangement.

Appointment process, qualifications, term, benefits, removal process

(Note: The appointment process described is placed in the legislative body and is an example in detail of how such a process works. Most acts do not contain this much detail. Some jurisdictions specify that the Ombudsman is appointed solely by the head of state, either on the advice of leaders of all parties in the legislative body or one or more other commissions or advisers or with the concurrence of the legislative body.)

Principle 3. The process for nomination and appointment of the Ombudsman is designed to foster the office's independence and create a broad base of support in the legislative body.

Sample language: An Ombudsman Selection Committee of three members of each house of (the legislative body) will be appointed by the presiding officers of the respective bodies with

Following the Swedish prototype, the Ombudsman is an officer of the legislative branch of government. Therefore, appointment by the legislative body provides independence from the executive-regulatee. Likewise, the relevant provision of the Model Ombudsman Act for State Governments drafted by the Model Ombudsman Act Committee of the United States Ombudsman Association⁹¹ provides that the “legislative body shall elect the Ombudsman by a two-thirds vote of the members of each house present and voting”. In the comment part of the model act on the relevant provision, it was argued that the principle of the separation of powers was not violated “since the Ombudsman may only make recommendations, and may not compel the executive and judicial agencies to take substantive actions”. However, the argumentation is simplistic since the executive functions are not necessarily or exclusively linked to taking-up repressive action. In our opinion, the office of the Ombudsman carries out statutory delegations. Within this framework, and beyond the self-management competences undertaken by any agency of the executive, it provides direct service to citizens, whereas the results of the investigating and reporting activities might affect the lives of citizens in important ways. In other words, these functions of the agency pertain to the executive branch of government even if they serve a purpose similar to that of the parliamentary review undertaken by the parliamentary committees. It should be reminded that the Offices of the Inspectors General of Public Administration supervising executive action, a mission similar to that of parliamentary review, are not incorporated into the legislative branch of government.

at least one member of each body coming from a minority party. The committee will advertise for applicants for the position. The names and résumés of all applicants are open to the public.

Commentary: Unicameral legislative bodies could appoint a six-member committee. The process of choosing the Ombudsman is one of the important controls the legislative body has over the office. Choosing the right person is important to the success of an Ombudsman’s office. Public advertising and review of the qualifications of candidates is one means to foster strength in the final candidate for the office.

Principle 4. Any legislative committee that recommends a candidate to be Ombudsman shall select one candidate and make the recommendation by a majority vote of at least two-thirds of the committee’s members.

Sample language: The Ombudsman Selection Committee shall examine persons to serve as Ombudsman regarding their qualifications and ability, shall choose by at least a two-thirds vote the name of the person selected and place that name in nomination.

Commentary: A large majority-and one candidate increases-the likelihood of choosing a well-respected, fair and impartial person with broad support and diminishes the chances of choosing a candidate with a political agenda.

Principle 5. A majority vote of at least two-thirds of the full legislative body is required to nominate or elect the Ombudsman.

Sample language: The appointment of the Ombudsman is effective if the nomination is approved by a roll call vote of two-thirds of the members of (the legislative body) and approved by the executive.

Commentary: A large majority increases the likelihood of choosing a well-respected, fair and impartial person with broad support and diminishes the chances of choosing a candidate with a political agenda. In some jurisdictions, the Ombudsman is appointed by the head of state—the President, Lieutenant-Governor, Governor or other authority—on the recommendation of a two-thirds or unanimous vote of the legislative body. While a two-thirds vote is the most common requirement, some jurisdictions require a three-fifths or three-fourths vote to appoint. Some jurisdictions place time limits on how long after a nomination is submitted the appointment must take place”. Source: The official website of the International Ombudsman Institute, available at: <http://www.theioi.org/publications/occasional-papers-archives>, date of access: 27.01.2012.

⁹¹ The official website of the United States Ombudsman Association, Model Ombudsman Act for State Governments, February 1997, available at: http://www.usombudsman.org/documents/PDF/References/USOA_MODEL_ACT.pdf, date of access: 27.01.2012.

On the contrary, the American Bar Association in its Standards for the Establishment and Operation of Ombudsoffices, as revised in February 2004⁹², proposes a moderate appointment version, thus taking into consideration the limitations of the U.S. Constitution. Therefore, the legislative Ombudsman⁹³ *“should be appointed by the legislative body or . . . by the executive with confirmation by the designated proportion of the legislative body, preferably more than a majority, such as two thirds”*. In a previous text⁹⁴, the American Bar Association stated on the issue: *“In foreign countries the ombudsman has been elected by the legislature. The governmental structure in those countries differs, however, from the American pattern. Appointive officials, whatever their nature, are customarily chosen in American jurisdictions by the Chief Executive, subject sometimes to legislative confirmation. The present proposal contemplates confirmation by an unusually substantial vote in both chambers (if two exist) rather than in the Senate alone. This is intended to stress the “non-political” nature of the appointment and to reflect the need for the general acceptability of the person chosen. Whether the required majority be two-thirds of those voting or some other figure can, of course, be fixed in accord with local preference or precedent. Some persons favour direct legislative selection, without participation by the Executive”*. The text also cited paradigms of exclusive selection by the legislative in Florida, Connecticut, and California pinpointing that *“all the plans emphasize the desirability of “de-politicalizing” the selection process”*.

The American Bar Association and the United States Ombudsman Association are not International Governmental Organisations. However, we invoked their model acts on the institution of the Ombudsman for one reason. Those who drafted them, with the exception of the Council of Europe’s Recommendation where there is no relevant reference, argue that the institution of the Ombudsman was first created in Sweden in 1809. However, its origins go back to the eighteenth century, in 1714 when King Charles XII of Sweden instituted the office of His Majesty’s Supreme Ombudsman,

⁹² The Official Website of the American Bar Association, Standards for the Establishment and Operation of Ombudsoffices adopted by the House of Delegates, February 9, 2004, available at: http://www2.americanbar.org/child_migrated/PublicDocuments/ombudsmen-1.pdf, date of access: 27.01.2012.

⁹³ The American Bar Association discerns four categories of Ombudsoffices: i) the legislative Ombudsman, ii) the executive Ombudsman, iii) the Organisational Ombudsman, and iv) the Advocate Ombudsman. The legislative Ombudsman coincides with the Classical Ombudsman. Therefore, he “addresses issues raised by the general public or internally, usually concerning the actions or policies of government entities, individuals or contractors with respect to holding agencies accountable to the Public”. The Executive Ombudsman is defined as follows: “An executive ombuds may be located in either the public or private sector and receives complaints from the general public or internally and addresses actions and failures to act of the entity, its officials, employees, and contractors. . . if located in government, an executive ombuds should not have general jurisdiction over more than one agency, but may have jurisdiction over a subject matter that involves multiple agencies”.

⁹⁴ The Official Website of the American Bar Association, available at: <http://www.abanet.org/adminlaw/ombuds/american.html>, date of access: 10.09.2010

which soon became the Chancellor of Justice⁹⁵. In 1766, during the period of parliamentary sovereignty⁹⁶ (the Period of Liberty: 1719-1772), the Parliament, the Riksdag, for the first time elected the Chancellor of Justice⁹⁷. In 1772 the election became once more a royal-executive prerogative. In 1809 the Instrument of Government divided power between the King and the Riksdag. The Parliamentary Ombudsman⁹⁸ was then established and elected by Parliament based on the model of the Chancellor of Justice that continued operating as the royal Ombudsman appointed by the King⁹⁹. In other words, the Ombudsman was initially created as an organ of the executive. It seems that the establishment of the Parliamentary Ombudsman,

⁹⁵ "In 1713 King Charles XII, preoccupied with fighting the Great Northern War, was residing in Bendery and had not set foot in Sweden in over a decade. In order to reestablish the domestic administration, which had fallen into disarray, he instituted the office of *His Majesty's Supreme Ombudsman*, which soon became the Chancellor of Justice. The office commenced operation on October 23, 1714 and the role of the official was to ensure that judges and public officials acted in accordance with the laws, proficiently discharged their tasks, and if not he could initiate legal proceedings for dereliction of duty". Source: Wikipedia, available at: http://en.wikipedia.org/wiki/Chancellor_of_Justice, date of access: 26.01.2012.

⁹⁶ "The death of the unmarried Charles XII without an heir leaves the Swedish monarchy in as weak a state as the nation. Charles's brother-in-law is elected to the throne in 1720, as Frederick I, but the political effect of the change is to give more power to Sweden's parliament, the *riksdag*. This ancient institution now evolves along lines similar to the British pattern, with policy contested between organized parties. Here, the equivalents of Whigs and Tories go by equally strange descriptions. The two parties are the Hats and the Caps. The Hats take their name from military headgear; they believe in an aggressive policy to recover Sweden's empire. The Caps, more peacefully inclined, are named from nightcaps. At the *riksdag* of 1738 the Hats become the dominant party, and they hold power until 1765. Their military policy does little good to Sweden, which becomes increasingly subservient to Russia. Their main achievement is progressively to weaken the power of the monarch. Indeed during the reign of Adolphus Frederick, the elected heir of Frederick I, the ruling senate makes use of a stamp duplicating the king's signature to avoid his personal involvement in the nation's business. Foreign powers attempt to influence Sweden's policy, by paying large subsidies to help either the Hats or Caps into power. The bribing of Sweden's political parties becomes part of a wider European conflict. France supports the Hats, hoping to win the alliance of a militant Sweden. France's enemies (in particular Britain, Prussia and Russia) subsidise the Caps with the intention of keeping an inert Sweden on the sidelines. The two squabbling and corrupt factions damage Sweden both at home and abroad. The situation is not resolved until Gustavus III succeeds his father Adolphus Frederick in 1771. He is as forceful as his father was feeble. In a coup d'état of 1772 he persuades the Stockholm garrison to arrest all the members of the ruling council of state. He then presents the *riksdag* with a new constitution bringing executive power back into royal hands. It is unanimously accepted". Abstract from the History World Net, available at: <http://www.historyworld.net/wrldhis/PlainTextHistories.asp?ParagraphID=mkn>, date of access: 26.01.2012.

⁹⁷ Source: The Official Website of the Swedish Parliamentary Ombudsman, available at: http://www.jo.se/Page.aspx?MenuId=20&MainmenuId=12&ObjectClass=DynamX_Documents&Language=en, date of access: 25.01.2012.

⁹⁸ According to the Official Website of the Swedish Parliamentary Ombudsman: "*At that time Sweden was ruled by the King and therefore the Riksdag, which then represented the Four Estates, considered that some institution that was independent of the King was needed in order to ensure that laws and statutes were obeyed*". Information available at: http://www.jo.se/Page.aspx?MenuId=12&ObjectClass=DynamX_Documents&Language=en, date of access: 28.01.2012.

⁹⁹ The Office of the Chancellor of Justice is an independent authority whereas the Chancellor is appointed by the government. According to the Official Website of the Swedish Chancellor of Justice, "The Chancellor of Justice is free to raise issues on the supervision of authorities of his or her own motion. The majority of cases are however initiated by private parties by means of submitting a written complaint, thus drawing the Chancellor's attention to malpractice or abuse of powers within the public administration". Information available at: <http://www.jk.se/sv-SE/Languages/English.aspx>, date of access: 25.01.2012.

operating in parallel with the Chancellor of Justice, was rather the result of antagonism and compromise between the King and the Parliament. The Parliamentary Ombudsman is considered as an instrument of parliamentary control assisting the Riksdag in this task. The relevant section of the website of the Swedish Parliament states: “It is the task of the Parliamentary Ombudsman to ensure that all members of the public are treated in compliance with existing laws in their dealings with public agencies. The Office of the Parliamentary Ombudsmen is an authority under the Riksdag¹⁰⁰”. Therefore, it is interesting to see, as is the case with the Parliamentary Ombudsman in Sweden, the legislative Ombudsman at state level in the U.S., the Parliamentary and Health Service Ombudsman in the U.K., how parliaments create independent agencies under their authority¹⁰¹.

International Governmental Organisations (UN, OSCE, CoE) link legislative appointment process for the members of the boards of the media regulatory authorities and public broadcasters to the promotion of freedom of expression as prescribed in article 19 of the International Covenant on Civil and Political Rights. The appointment process for the members of the boards of the relevant regulatory authorities and public broadcasters should be unfettered by the predominance of the governing party, thus safeguarding political plurality. The Recommendation (2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector¹⁰² states that “. . . rules should guarantee that the members of these authorities are appointed in a democratic and transparent manner”. According to the Declaration of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector¹⁰³ democratic manner is conceived of as legislative appointment since “In most Council of Europe member states, the members of regulatory authorities are appointed by the parliament or by the head of state at the proposal of parliament”.

¹⁰⁰ Source: the Official Website of the Swedish Parliament, available at: http://www.riksdagen.se/templates/R_Page_4394.aspx, date of access: 25.01.2012.

¹⁰¹ In all the above cases Parliament decides on the budget of the Offices of the Ombudsmen. However, in the case of the U.K. it was the executive that selected the Ombudsman until 2011. Sources: The official website of the Swedish Parliamentary Ombudsmen, available at: http://www.jo.se/Page.aspx?MenuId=12&ObjectClass=DynamX_Documents&Language=en, date of access: 28.01.2012. The Office of the Ombudsman, Hawaii, Chapter 96-3 Hawaii Revised Statutes, The Official Website of the Office of the Ombudsman, State of Hawaii, available at: <http://www.ombudsman.hawaii.gov/chapter-96>, date of access: 29.12.2009. Parliamentary Commissioner Act 1967, Chapter 13, Section 3. The Official Website of Her Majesty’s Stationery Office, available at: <http://www.legislation.gov.uk/ukpga/1967/13/crossheading/the-parliamentary-commissioner-for-administration>, date of access: 30.01.2012.

¹⁰² Recommendation (2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector, available at: <https://wcd.coe.int/ViewDoc.jsp?id=393649&Lang=en>, date of access: 26.01.2012.

¹⁰³ Declaration of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector (Adopted by the Committee of Ministers on 26 March 2008 at the 1022nd meeting of the Ministers’ Deputies), available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=Decl\(26.03.2008\)&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?Ref=Decl(26.03.2008)&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75), date of access: 29.01.2012.

Likewise, according to the Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression regarding the Regulation of the Media¹⁰⁴ “All public authorities which exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party”. Therefore, according to international standards, appointment by the executive “gives the Government considerable control over the actions of the Authority, and seriously undermines its independence. A better approach would be for none of the members to be nominated or appointed by political figures and for appointments to be made instead by Parliament, a multiparty body¹⁰⁵”. Therefore, the participation of the executive in the appointments process in media regulation and public broadcasting is not in line with the international standards on freedom of expression.

The Representative of the OSCE on Freedom of the Media, Dunja Mijatović, in her Regular Report to the Permanent Council dated July 29, 2010 severely criticized President Sarkozy for the adoption of an audiovisual law¹⁰⁶ permitting executive appointment with legislative confirmation in the selection of the new head of the public service broadcaster, France Televisions¹⁰⁷. France abolished the executive prerogative in appointments for certain public posts relating to the safeguard of rights and liberties or the economic and social life of the Nation. Article 13 of the Constitution¹⁰⁸ was revised, thus adopting a system similar to the Appointments

¹⁰⁴ International Mechanisms for Promoting Freedom of Expression, Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, available at: <http://www.osce.org/fom/28235>, date of access: 30.01.2012.

¹⁰⁵ Note on the Draft Broadcasting Authority Act for the Commonwealth of Dominica drafted by Article 19: Global Campaign for Free Expression, an NGO established in 1987. It has worked and partnered with IGOs like the UN and OSCE. Available at: <http://www.article19.org/data/files/pdfs/analysis/dominica-draft-broadcasting-authority-act.pdf>, date of access: 30.01.2012.

¹⁰⁶ Organic Law n° 2009-257 of March 5, 2009 regarding the nomination of the presidents of the enterprises France Télévisions and Radio France and the enterprise responsible for the broadcasting of France abroad. Available at: http://www.legifrance.gouv.fr/affichTexte.do?sessionId=C9F558F1ADF88C2CB50D033373C05153.tpdjo13v_3?cidTexte=JORFTEXT000020352069&dateTexte=&oldAction=rechJO&categorieLien=id, date of access: 30.01.2012.

¹⁰⁷ Dunja Mijatović stated in the report: “On 5 July, President Nicolas Sarkozy nominated a new head of the public service broadcaster, France Television, following a new selection procedure approved in March 2009 as part of a reform of audiovisual laws. Although this nomination by the President comes with extensive approval guarantees by the regulatory authority and requires approval by three-fifths of the relevant Parliamentary Commission, I would like to restate that it is the position of my Office that the presidential nomination of the head of a country’s public service broadcaster is an obstacle to its independence and contradicts OSCE commitments. This concern was already expressed by my predecessor, Miklós Haraszti, in a letter sent to the President on 16 December 2008”. Source: Regular Report to the Permanent Council dated July 29, 2010, OSCE, available at: <http://www.osce.org/fom/74949>, date of access: 31.01.2012.

¹⁰⁸ According to Article 13, par. 5 of the French Constitution as revised by the constitutional law no 2008-724 of July 23, 2008 on the modernisation of the institutions of the 5th Republic, a law may determine the employments or functions that, due to their importance for the guarantee of the rights and liberties or the economic and social life of the Nation, the nominating power of the President of the Republic is exercised upon the public opinion of the competent permanent standing committee of each

Clause provided for in the U.S. Constitution. If the Representative's severe statement is correctly understood, France should revise once more its Constitution providing for exclusive legislative appointment¹⁰⁹. Indeed, following Article 19's model public service broadcasting law¹¹⁰, the members of the Board should be exclusively appointed by parliament. Dunja Mijatović, in her Regular Report to the Permanent Council of the OSCE dated December 16, 2010¹¹¹, pinpointed the reluctance of the OSCE member states to comply with their commitments stating: "The OSCE commitments are universally applicable to all 56 participating States. The tendency to apply them with the proviso *"in accordance with national legislation and tradition"* is undermining this universality. My role is to uphold the principle and to call for nations to adapt their laws to come into compliance with media-freedom commitments". It is obvious that the functionalist approach is at odds with the separation of powers orthodoxy as far as the appointments clauses are concerned.

The tables in the Appendices 4, 5, and 6 contain a cross-national presentation of the appointments clauses of the Ombudsmen and deputy Ombudsmen, as well as the heads and members of the boards of the national regulatory authorities in the

legislative chamber. The President of the Republic may not proceed to a nomination, if the addition of the negative votes in each committee represents at least three-fifths of the votes expressed in these two committees. The organic law no 2010-837 of July 2010 regarding the application of the fifth paragraph of the French Constitution contains a list of 48 public sector agencies whose heads are appointed according to the said provision.

Available at:
http://www.legifrance.gouv.fr/affichTexteArticle.do?sessionId=AA7A39FB2A9764489E806236F3DF5A36.tpdjo13v_3?cidTexte=JORFTEXT000000571356&idArticle=LEGIARTI000006527475&dateTexte=&categorieLien=cid, date of access: 31.01.2012.

¹⁰⁹ François Holland, the candidate of the French Socialist Party, who finally won the presidential elections of 2012, promised to settle the issue as set out in his pre-election platform. The following translated abstract from the newspaper *Le Monde Diplomatique* (April 2012, p. 23) gives the relevant information: "I will be a President guaranteeing the independence of justice and media", declared in October 2011 Mr François Holland, socialist candidate in the French presidential elections. Indeed, the Socialist Party (PS) proposes in its programme that the appointment of those in charge of the public broadcasters should be exercised by an independent authority, and not by the Head of State. "The next President will establish a new regulatory body in the broadcasting field", he declared in his speech in Dijon, on March 3. "The members will be nominated by the committees of Cultural Affairs of the National Assembly and the Senate with a qualified majority of three-fifths. It will put an end to that power that only one enjoyed in relation to the nomination of the presidents of the public broadcasting companies. It will be this body that will elect the future heads of the public channels, control their specifications, and reinforce the particularity of these channels, that is, the public service".

¹¹⁰ The model clause on the Appointment of the Board reads as follows: "Members of the Board shall be appointed by the [insert name of (lower chamber of) parliament], in accordance with the following:

- (a) the process shall be open and transparent;
- (b) only candidates nominated by civil society and professional organisations shall be considered for appointment;
- (c) a shortlist of candidates shall be published in advance and the public shall be given an opportunity to make representations concerning these candidates;
- (d) a candidate shall be appointed only if he or she receives two-thirds of the votes cast;
- (e) membership of the Board as a whole shall, to the extent that this is reasonably possible, represent a broad cross-section of [insert name of State] society;

Source: A Model Public Service Broadcasting Law, Article 19, International Standards Series, June 2005, London, available at: <http://www.article19.org/data/files/pdfs/standards/modelpsblaw.pdf>, date of access: 31.01.2012.

¹¹¹ Regular Report to the Permanent Council of the OSCE dated December 16, 2010, available at: <http://www.osce.org/fom/74598>, date of access: 31.01.2012.

broadcasting field, and in the field of the protection of personal data. The selection mechanisms are codified in relation to the branch of government competent for the nomination, selection, and appointment. In most cases, the legislative bodies participate in the selection mechanisms either through confirmation of the executive nomination, or through autonomous processes. The paradigm of France is characteristic since the traditional executive prerogative of appointing the heads of independent administrative authorities was complemented by legislative checks. Moreover, the new system was extended to the appointment of the heads of the most prominent public sector posts. It seems that established democracies¹¹² pushed by functionalist visions gradually abandon their constitutional separation of powers traditions, either through adopting the American paradigm or even moving beyond the formalist permissible limits, that is, autonomous legislative appointment power.

vii. An instructive story from the State of Rhode Island: From the legislature's appointive prerogative back to the separation of powers orthodoxy

The United States seems to remain faithful to its own constitutional orthodoxy since it continues to insist on the formalist approach of the separation of powers in relation to its checks and balances appointive tradition even in the case of the independent regulatory agencies¹¹³. The battle for the separation of powers in the state of Rhode Island might prove to be instructive. It ended up with the amendment of the state constitution providing for the abolition of the legislature's appointment power which had remained unchecked for over two centuries. Interestingly enough, it was not the legislature that proposed the amendment. On the contrary, good government groups launched "a concerted campaign of nine years" that succeeded in convincing public opinion over the need to restore through constitutional amendment an "abstract concept of political science" (Bogus, 2004). The first attempt to pass the amendment on April 11, 2002 failed as the "*House leadership surprised them with a sudden parliamentary maneuver that killed the measure without either a debate or a vote*"¹¹⁴ (Bogus, 2004). The episode triggered tremendous reaction, and the amendment became a top priority issue in the state legislative elections of fall 2002. As a result, all candidates, incumbents and challengers alike, regardless of prior positions, were asked by a group called the Rhode Island Separation of Powers Committee (RISOP) "to sign a pledge promising to support separation of powers in the future" (Bogus, 2004). Indeed, both State legislatures, the Senate and the House, unanimously approved the constitutional amendment on July 30, 2003.

Rhode Island constituted a deviating case among the states in relation to the powers of the legislature. The Rhode Island Supreme Court in its decisions in 1999 and 2000 judged that the doctrine of the separation of powers was not part of the state constitution, and supported the view that Rhode Island government was rather a

¹¹² Contrary to established democracies, Biezen and Kopecky (2007) consider all countries that started to democratize during or after 1974 as new democracies.

¹¹³ Whitehouse (1996) states: "For over a century, the United States Supreme Court has forbidden Congress from making appointments to offices outside the legislative branch of government. James Madison said: The power of the legislature to appoint any other than their own officers, departs too far from the theory which requires a separation of the great Departments of Government".

¹¹⁴ Edward Fitzpatrick (as cited in Bogus, 2004) explains that "had both legislative chambers passed the bill, it would have placed the proposed constitutional amendment on the ballot at the next general election for ratification by the voters. House leaders orchestrated a vote, which passed 49-38, to recommit the bill to the House Judiciary Committee, which had previously rejected the amendment".

“quintessential system of parliamentary supremacy” (Bogus, 2004). Indeed, the legislature retained unchecked appointment powers over the executive and regulatory agencies¹¹⁵. The Rhode Island Constitution, also called the Algerine Constitution, (1842), that, in the main, was still in force until its amendment in 2003, included a clause explicitly providing for the separation of powers¹¹⁶. Nevertheless, another clause provided that “The general assembly shall continue to exercise the powers it has heretofore exercised, unless prohibited by this constitution”. Thus, the General Assembly traced its powers back to those contained in the Charter of 1663 granted by King Charles II of England. The Charter was drafted before Locke’s and Montesquieu’s works on the separation of powers, and thus placed all power, that is, the legislative, executive, and judicial in the colonial legislature. The amended clauses of the state Constitution on the separation of powers provide for the following: i) the members of the legislature are excluded from appointment to any office, board, commission or other state or quasi public entity exercising executive power, ii) the clause on the continuation of legislative powers contained in the Charter of 1663 is repealed, iii) the three branches of government are “separate and distinct”, and iv) the adoption of a provision similar to the appointments clause of the U.S. Constitution¹¹⁷.

But why was it considered necessary to abolish the legislature’s appointive prerogative? Beyond the theoretical formalistic argumentation on the separation of powers exhaustively analyzed in Whitehouse’s (1996) and Bogus’s (2004) papers, the authors also invoke the negative aspects of the system and raise practical concerns. In Bogus’s view the unusual concentration of power in the legislature enhanced corruption in the sense of perversion of public decision-making. However, irrespective of the development of state-specific conditions and relationships facilitating distortions, the obstruction of the proper operation of the mechanism of legislative oversight seems to be crucial in the authors’ view. Bogus states: “Agencies may become improperly politicized under executive control, of course, but legislative oversight provides some check when that occurs. When the legislature both operates and oversees agency operation, however, that safeguard is gone”. Likewise, Whitehouse supports the view that even if the terms “liberty”, “tyranny” and “corruption” used in the 18th century political discourse “may not resonate for all of us . . . we also have a clear example of one of the most practical of the checks and balances, legislative oversight, that is a sacrifice to these legislative appointments. . .

¹¹⁵ The Brayton Act of 1901, passed by the General Assembly, “gave the legislature the power of appointment over not only judicial appointments but executive appointment as well, thereby reducing the governor to the mere figurehead of the executive branch” (Bogus, 2004). Moreover, Bogus (2004) states that “Presently, the legislature appoints a total of 234 members on the governing boards of these seventy-three agencies, in some instances by filling these seats with members of the General Assembly themselves”.

¹¹⁶ Article V of the Rhode Island Constitution read: “The powers of the government shall be distributed into departments: the legislative, executive and judicial”.

¹¹⁷ Section 5 of Article IX entitled “Of the executive power” reads as follows: “Powers of appointment. -- The governor shall, by and with the advice and consent of the senate, appoint all officers of the state whose appointment is not herein otherwise provided for and all members of any board, commission or other state or quasi-public entity which exercises executive power under the laws of this state; but the general assembly may by law vest the appointment of such inferior officers, as they deem proper, in the governor, or within their respective departments in the other general officers, the judiciary or in the heads of departments”. Available at: <http://www.rilin.state.ri.us/RiConstitution/C09.html>, date of access: 31.01.2012.

Although legislative inquiries have been and can be abused, they are an important mechanism in our checks and balances of government. Where legislative appointees lead and oversee the departments and agencies of the other branches of government, this mechanism is compromised”. It should be noted that the unchecked and concentrated power of the American state legislatures provoked the abandonment of the Articles of Confederation and led to the drafting of the U.S. Constitution.

Any violation of the constitutional constraints which actually formulate the profile of the polity of a country with respect to the separation of powers principle could lead to the distortion of the political system itself. The ambition of this section is to make an attempt to approach the issue of formalism and functionalism beyond their operation on law. In other words, this part of the study rather seeks to justify how the visions of formalism and functionalism in the doctrine of the separation of powers impact on regulatory politics.

3. The first generation of the selection mechanisms before the constitutional revision of 2001: A test of constitutionality

a. The National Council for Radio and Television, Law 1866/1989-Phase I¹¹⁸: Direct nomination by the political parties and the relevant societal groups

i. The Appointments Clause

The National Council for Radio and Television (NCRTV) was established under the law 1866/1989 as an independent organ. According to article 1, par. 3, its mission was to guarantee freedom of expression and polyphony, that is, plurality of opinions, safeguard journalistic deontology, and promote the quality of the programmes of broadcasters, as prescribed in the constitution. Article 2 of the law provided for the selection mechanism and the candidates’ profile. The appointments clause constituted a composite act, comprising two phases: direct nomination by the political parties and the relevant societal groups, and official appointment with an executive veto by the competent Minister. The Minister had the discretion to scrutinize the nominations, thus rejecting any proposal that was contrary to the preconditions set forth in article 2, par. 1 of the law, that is, “*individuals of high standing in the field of literature, arts, science, technology, and politics*”. Finally, the official appointment act should be a presidential decree and not a ministerial decision since according to the Code of Civil Servants as in force by the time of the promulgation of the law “*high ranking civil servants shall be appointed by presidential decree*”.

ii. The political juncture, discussions in Parliament, comments and interpretation

The discussions and debates of the draft law¹¹⁹ “*Establishment of the National Council for Radio and Television, and grant of licenses for the foundation and*

¹¹⁸ The legislative evolution of the appointments clauses of the members of the National Council for Radio and Television (NCRTV) is divided in three phases. Thus, we cite all the stages of their amendment until the final converging appointments clause established by the revision of the Constitution in 2001.

¹¹⁹ See Appendix 2, 1 for abstracts from the discussions.

function of broadcasters” in principal and in particulars in the Greek Parliament¹²⁰, despite minor reservations on the part of the MPs of the socialist party, Pasok¹²¹, reveal the beginning of a new era of consensual approach to politics in the country¹²². The paradigm of the composition of the board of the National Council for Radio and Television, and the selection mechanism provided for the appointment of its members proves this point. The political juncture rather enhanced new practices of interparty relationships, and set the basis for further future cooperation at institutional level.

Nevertheless, the political tension of that period probably does not explain/justify such a claim at first sight. The cases of the “Sale of the Century” or Warplanes Kickback¹²³, the Telephone-Tapping Racket¹²⁴, the Yugoslave Maize Fraud¹²⁵, and the scandal with the young banker Koskotas, which shook Greece in mid-1988, forced the socialist government of Pasok to call elections on June 1989. Koskotas was a young banker and publisher who came from nowhere. He bought the Bank of Crete and owned a publishing empire that operated five magazines, three newspapers and a radio station. He also bought Greece’s most popular football team, Olympiakos. On October 19, 1988 Koskotas was prosecuted for abuse of billions of drachmas from the Bank of Crete. Extradition to Greece was awaited since he had already fled and been arrested in the USA¹²⁶. The opposition and the press were highly critical against the Prime Minister, Andreas Papandreou, and Deputy Prime Minister, Agamemnon Koutsogiorgas since there were allegations of bribery¹²⁷. The electoral law in force in

¹²⁰ Minutes of Parliament, First Assembly, Sessions 37 and 38 discussion and debate in principal September 14th, and September 18th, 1989, and Session 42, discussion and debate in particulars September 21st, 1989.

¹²¹ Party of the minority. On September 3, 1974, Andreas Papandreou announced the creation of the Panhellenic Socialist Movement (PASOK). The party won the national elections in 1981, 1985, 1993, 1996, 2000, and 2009.

¹²² The law 1866/1999 was unanimously adopted.

¹²³ The case concerned the excessive cost of purchases from French and American suppliers.

¹²⁴ There were allegations of telephone tapping against the Prime Minister, Andreas Papandreou. He was accused of having tapped the home and business telephones of his rivals, such as the head of the opposition, Konstantinos Mitsotakis, and unfriendly publishers.

¹²⁵ The case concerned the sale of illegally imported Yugoslavian corn –presented as Greek- to European countries by a state-owned company. The European Commission discovered the fraud and the court of the European Communities convicted Greece. On August 11, 1990 former Minister of Finance, Nikos Athanassopoulos, was sentenced to three years and six months imprisonment by the Special Court.

¹²⁶ Koskotas was extradited to Greece in June 1991. He was sentenced to twenty five years imprisonment and served twelve years of his sentence.

¹²⁷ Abstract from Koskotas prison interviews with Time regarding the allegations of bribery: “*Koskotas charges that millions of dollars missing from his bank were actually payoffs that went directly to the head of the government, Andreas Papandreou, and PASOK officials. The Prime Minister, says the banker, personally authorized the plan to loot the Bank of Crete. Koskotas describes as well his own illegal complicity in the huge swindle, one that involves enormous sums hard to account for adequately. The plot was an audacious one. To create the pool of crooked money, PASOK leaders had for three years ordered state-managed corporations such as the Post Office, the Organization of Urban Transportation and the State Pharmaceutical Co. to transfer large bank deposits -- the country's money, in effect -- out of the big national banks into the Bank of Crete, then the / smallest private bank in the country. There, Koskotas says, he arranged for the government deposits to draw an exceptionally low rate of interest, only 2% or 3%. Bank savings accounts in Greece routinely draw 15% interest. The excess interest earned on the government deposits was siphoned off and went straight to the politicians, he says. In addition, protected and encouraged by Papandreou, Koskotas secretly plowed Bank of Crete funds into his magazines and newspapers. In the past year, says Koskotas, some 40 shipments of money, in blue briefcases stuffed with 5,000-drachma notes, were carted out of the Bank of Crete and*

the elections of June 1989 made it hard for the first party to form a government on its own¹²⁸. New Democracy¹²⁹, the right wing party, won the elections but was forced to form a coalition government with the left wing party, Coalition¹³⁰. It was agreed that

taken first to his own residence. There the banker handed the money over to a Papandreou confidant, Georgios Louvaris, who Koskotas says made the deliveries to the Prime Minister. Pickups occurred weekly and amounted over the year to more than 3 billion drachmas (\$20 million at today's rates). In addition, Koskotas claims he personally carried a total of half a billion drachmas (\$3.3 million) to the home of a Deputy Prime Minister, Menios Koutsogiorgas. At the Bank of Crete half a dozen other PASOK leaders twice a month received briefcases filled with money totaling 1.5 billion drachmas (\$10 million). There was little danger of interference. Fifty different national audits of the Bank of Crete that might have uncovered the scheme were squelched over the years by PASOK officials, says Koskotas, twice by direct calls from Papandreou. In the summer of 1988, the government muscled through a special Secrecy Act that had the effect of guaranteeing its overdrawn banker financial confidentiality. Koskotas says he was directed to pay an additional \$2 million to then Deputy Prime Minister Koutsogiorgas as a reward for managing the legislation". *Time Magazine*, article entitled "Scandals the looting of Greece", by Robert Ajemian, Available at: <http://www.time.com/time/magazine/article/0,9171,957221-2,00.html>, date of access: 03.07.2010. According to New York Times: "Andreas Papandreou described *Time* as "the organ of the American establishment" and the contents of the article as a "historically unique collection of despicable allegations." He said he had instructed his lawyers to sue the magazine for libel and defamation both in Greece and abroad", by Paul Anastasi, available at: <http://www.nytimes.com/1989/03/09/world/papandreou-linked-to-scandal-charges-plot.html>, date of access: 03.07.2010

¹²⁸ Verney (1990) states: "Meanwhile towards the end of Pasok's second term in office, it became apparent that the party could not expect another independent majority . . . Therefore, following a long-established Greek government tradition, Pasok passed a new electoral law designed to maintain its own grip on government. The new law aimed to avert a New Democracy electoral victory while continuing to favour the two major parties at the expense of the third. The former reinforced proportional system would have given ND a straight parliamentary majority in June 1989, resulting in a simple alteration in power between the two major parties without upsetting the tradition of one-party government. In contrast, "pure" PR would have made a one-party majority almost unattainable. The new law created a hybrid system, somewhere between the two, which, according to Synaspismos (Coalition) deputy and psephologist, Manolis Drettakis, deprived the left-wing coalition of 13 parliamentary seats in June, 12 in November and 10 in April. This was due to the controversial "plus one" clause, which based the first distribution in each constituency on the number of parliamentary seats to be shared out plus one. Because of this clause, a one-party government could be formed with a majority of a little over 46.5 per cent".

¹²⁹ It is a liberal right political party, and was founded in October 4th 1974 by Konstantinos Karamanlis. The party won the national elections in 1990, 2004 and 2007.

¹³⁰ The Coalition (Synaspismos) was an electoral alliance between the Communist Party of Greece (Charilaos Florakis) and EAR (Greek Left led by Leonidas Kirkos) created before the national elections of June 1989. The Communist Party of Greece (KKE) was founded in 1918. It was one of the few European communist parties that did not follow the line of Eurocommunism, and managed to survive the ideological crisis created by the fall of the communist regimes in Eastern Europe during 1989-1991. On the other hand, the party of the Greek Left (EAR) was formed in 1987 following the self-dissolution of the Eurocommunist party (KKE-Esoterikou). Other small left-oriented parties, groups and personalities also participated in the new party. Thus, the Coalition (Synaspismos) became the regulator of the political situation after the elections of 1989 since no party could form a government on its own. The Coalition faced a dilemma: either support the proclamation of new elections and take political responsibility for the avoidance of indictment of the defendants for the scandals to the Special Court or cooperate with the party of the right. The final decision of the leaders of the left was based upon moral necessity, and political calculation. They felt that they had the moral obligation to proceed to political cleansing, whereas prosecution of their political rivals would create an internal crisis to PASOK and, therefore, strengthen their own party in future elections. The Coalition was accused of having facilitated the access of the party of the right to power in 1990. That was one of the main issues that caused the split within the Communist Party of Greece in 1991. The ideological crisis created by the fall of the communist regimes was undoubtedly another major reason for that split. A significant number of its members (15 members of the Central Committee and dozens of executives) joined the

the Tzannetakis government, as it was called from the name of the prime minister, would have a limited term - three months - and only two responsibilities: first, to launch a criminal investigation over the scandals¹³¹ that had forced the previous socialist government to call elections on June 1989 and, second, to prepare fair elections under the current electoral law¹³². The Politburo of the Central Committee of the Communist Party, in a statement on July 4, 1989 announced that cohabitation *"was the only possible solution to promote in a certain period of time the political cleansing, the democratic functioning of institutions, the reduction of partisanship in the public sector, the limitation of state repression, the regulation of the broadcasting sector in order to steer the country towards fair elections"*.

According to article 1, par. 1 of the Constitution of Greece the form of government is that of a parliamentary republic. Head of the State is the President of the Republic who is elected by Parliament, and has no real political power¹³³. Lijphart (1984; 1999) applies a two dimensional classification of democracies based upon the majoritarian-consensual dichotomy¹³⁴. Greece not only pertains to the majoritarian model of

party of the Greek Left and created a united party under the name of the former electoral alliance, Coalition. The split between the parties of the left was irrevocable.

¹³¹ On August 23, 1989 Parliament dealt with the scandal of the Yugoslavian corn, and former Minister of Finance, Nikos Athanassopoulos, was indicted in the Special Court. On September 21, 1989, Andreas Papandreou was indicted by Parliament in the Special Court for the case of telephone tapping. On September 27, 1989, Andreas Papandreou together with four ex-ministers of his government, Agamemnon Koutsogiorgas, Georgios Petsos, Dimitris Tsovolas and Panagiotis Roumeliotis were indicted by Parliament in the Special Court for the Koskotas scandal. Witnesses did not provide any evidence sufficient for the conviction of the ex-Prime Minister. Panagiotis Roumeliotis was a member of the European Parliament at the time of the trial and the European Parliament denied the waiver of his immunity. Agamemnon Koutsogiorgas died after a stroke suffered in the courtroom. On January 16, 1992 the Special Court declared Andreas Papandreou innocent regarding the Koskotas scandal. Dimitris Tsovolas was sentenced to two years and six months imprisonment and was deprived of his political rights for three years. Georgios Petsos was sentenced to ten months imprisonment and was deprived of his political rights for two years. On May 15, 1992 Parliament suspended the prosecution of Andreas Papandreou for the case of telephone tapping. On November 26, 1993 parliament consented to grant an act of grace and the waiver of the legal consequences for the conviction of Dimitris Tsovolas. The period called "dirty '89" or "clearance" (*katharsis*) typically ended on January 17, 1994 when Parliament consented to the waiver of the legal consequences for the conviction of Nikos Athanassopoulos for the case of the Yugoslavian corn.

¹³² The coalition of the parties of the Left and Right ended on October, 7 1989 after completion of the indictments to the Special Court. No party could form a government after the elections of November 5, 1989. Unsuccessful exploratory mandates led to the agreement of the three parties, PASOK, New Democracy, and Coalition, to form the "ecumenical government", as it was called, under eminent economist and academic Xenophon Zolotas. That cooperation severely damaged the credibility of politicians. Moreover, it was assumed that the crusade for "cleansing" was simply a political invention of the adversaries of PASOK in order to gain power. The head of New Democracy, the right wing party, Konstantinos Mitsotakis, undermined the alliance, and shortly thereafter the government fell when it failed to elect the President of the Republic. The party of the right won once again the elections of April 8, 1990 but still could not form a government. One seat was missing, and Theodoros Katsikis, the only elected deputy from the party of Democratic Renewal (DIANA), joined the parliamentary group of New Democracy.

¹³³ The constitutional amendments in 1986 eliminated all of the special powers of the President, thus transforming the political system into a pure form of parliamentary democracy. In practice, this transfer of power signalled the beginning of an era where the Prime Minister became a "parliamentary autocrat", thus further enhancing the traditional predominant role of the executive in relation to the legislature (Lijphart, Bruneau, Diamandouros, 1988; Pridham and Verney, 1991).

¹³⁴ Lijphart (1999) states: *"Defining democracy as "government by and for the people" raises a fundamental question: who will do the governing and to whose interests should the government be responsive when the people are in disagreement and have divergent preferences? One answer to this*

democracy, but also represents one of its purest forms after New Zealand and the United Kingdom. Moreover, it is “literally the most eccentric” case among the group of the Southern European Democracies, that is, Italy, Spain and Portugal (Lijphart, Bruneau, Diamandouros, 1988)¹³⁵. The coalition governments of 1989-1990¹³⁶ represent a short interval of consensual governance which was actually the result of a crisis. The majoritarian model was reconstituted by the electoral system of the reinforced proportional representation passed by the Mitsotakis government shortly after its rise to power by the law 1907/1990.

Within this context, Greece pertains to the group of the classical liberal democracies where Parliament abstains from the selection of the officials in public administration. The executive exclusively appoints high ranking public officials and civil servants. The Appointments Clause of the Constitution 1975/1986 (article 46) provided that “*The President of the Republic shall appoint and dismiss public servants, in accordance with the law, except in cases specified by law*”¹³⁷, whereas article 26 par 1 and 2, establishing the principle of the separation of powers, provide that “*the*

dilemma is: the majority of the people. This is the essence of the majoritarian model of democracy. . . The alternative answer to the dilemma is: as many people as possible. This is the crux of the consensus model. . . The majoritarian model concentrates political power in the hands of a bare majority – and often even merely a plurality instead of a majority, whereas the consensus model tries to share, disperse and limit power in a variety of ways. A closely related difference is that the majoritarian model of democracy is exclusive, competitive, and adversarial, whereas the consensus model is characterised by inclusiveness, bargaining, and compromise; for this reason, consensus democracy could also be termed “negotiation democracy” (Kaiser 1997, 434)”.

¹³⁵ In their Comparative Empirical Analysis, both models, that is, the majoritarian and the consensual, cluster along two dimensions: a. the executives-parties dimension, which comprises five variables pertaining to the party and electoral systems and of the arrangement of executive power, and b. the federal-unitary dimension, which consists of three variables related to government centralisation, constitutional flexibility, and bicameralism versus unicameralism. The analysis for Greece covers the period from 1974, when the first regular parliamentary elections took place after the fall of the authoritarian regime (junta), to 1986. The profile of Greece in the first dimension is “clearly majoritarian”. The findings of the research show that Greece has minimal winning and durable cabinets. It has a near two-party system (an average of 2.1 effective parties) due to the Greek electoral law that implements a “reinforced Proportional Representation” which, in turn, ends up in electoral disproportionality (7.6 per cent). With regard to the fifth characteristic, which refers to the dimensions of the programmatic differences among the two major parties, Greece deviates from straight majoritarianism since partisan conflict is not restricted to socio-economic policy. Other issue dimensions come also into play (regime support, foreign policy, post-materialist issues) that in the authors’ opinion would rather be attenuated in the future, especially the dimension of foreign policy. Such an evolution would strengthen even more the majoritarian orientation of the system. On the second dimension, the federal-unitary, Greece’s profile is equally majoritarian. It is unitary and centralised (government centralisation percentage of 96 per cent). It has a unicameral parliament and a rigid constitution since it may only be revised by a qualified majority. The profile of the majoritarian system, as presented in the study, corresponds to the current political and institutional reality.

¹³⁶ Pridham and Verney (1991) state: “*Both coalitions were unorthodox in composition. The Tsannetakis government, from July to October 1989, united two parties from opposite ends of the political spectrum, the conservative New Democracy (ND) and the communist-dominated Coalition of the Forces of the Left and Progress, (known as Synaspismos or more simply Syn), thus bypassing the left-of centre PASOK. This governmental alliance was all the more surprising, since the ideological distance between ND and Synaspismos has been described as the widest Left/Right divide among the 12 European Community member-states. The second coalition, the ‘ecumenical’ cabinet led by Zolotas, in government from November 1989 to February 1990, consisted of all three major parties, which between them controlled 98 per cent of the vote and 298 out of 300 parliamentary seats. This suggests that it was one of the most broadly based governments in the annals of contemporary West European politics”.*

¹³⁷ The power of appointment is allocated to the Cabinet or the competent Minister.

legislative powers shall be exercised by the Parliament and the President of the Republic” and “the executive powers shall be exercised by the President of the Republic and the Government”. If we apply a formalist approach, Article 26 may be interpreted as a clause where *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of the other). Moreover, there were no exceptions, thus allocating the power of selection to other organs inside government, in the sense of the intersection of functions, or outside government. Finally, Article 52, par. 1, and 2 of the Code of Civil Servants, Presidential Decree 611/1977, provided that “*high ranking civil servants shall be appointed by presidential decree, whereas all other civil servants shall be appointed by ministerial decision. Clauses providing for an/the appointment by decision of another organ are kept in force. Civil servants working for legal persons of public law are appointed by an act of the Board, whereas clauses providing for the appointment by an act of another organ of the legal person, or by presidential decree or by an act of the Cabinet, or the Ministers are kept in force*”.

The discussions in Parliament prove that there were no objections or considerations regarding the constitutionality of the appointments clause¹³⁸, that is, the members’ nomination and appointment by the executive. On the contrary, the Rapporteur of the Majority clearly stated that the draft law sought to disconnect the new authority from the government, and thus the power of the selection was allocated to the political parties and representatives from relevant societal groups. The Rapporteur’s argumentation was functionalist since it insinuated that the need for independence from the executive justified the violation of the principle of the separation of powers. The concerns expressed by the MPs were rather superficial, and had a bargaining character in relation to which societal groups should be represented in the Council. Another disagreement concerned the issue of the members’ impartiality in the discharge of their duties. Some MPs from Pasok supported that the guarantees of personal and functional independence were violated since the members of the Council would follow orders and instructions from their respective political parties or social groups¹³⁹. Hence, the MPs of the majority claimed that the political parties could select individuals of high standing who were not their members. Moreover, in their opinion, the appointed members would not act as mandataries of the political parties. This view was also popular in theory since “*the intervention of the latter [the political parties] starts and ends at the stage of the nomination*” (Oikonomou, 1999). Nevertheless, in his speech, Manolis Drettakis from the Coalition disclosed information since he claimed that eventually all the political parties had agreed upon the idea of an interparty committee.

With regard to the sources of inspiration of the appointments clause, the Rapporteur of the Majority made reference to relevant paradigms from France, Germany, and the U.K. stating that in all European countries there was an effort to avoid the interference of the government in the constitution of the authorities. Nevertheless, this was not quite true. On the other hand, despite the fact that the reference to the case of

¹³⁸ Only Theodoros Pangalos (Pasok) doubted the compatibility of the corporatist character of the composition of the board with the current political system, thus indirectly posing a problem of constitutionality of the selection mechanism.

¹³⁹ Most of the time, the representatives of societal groups are simultaneously members of political parties.

Germany did not provide any detailed information on the selection mechanism¹⁴⁰, the appointments clause was in practice inspired by the German model¹⁴¹. We could argue that the selection mechanism provided for in the German legislation could be described as an outlier in the late eighties. Indeed, in many jurisdictions, such as the United States¹⁴², Canada¹⁴³, the Netherlands¹⁴⁴, the United Kingdom¹⁴⁵, and

¹⁴⁰ The case of Germany is invoked twice in the discussions. The first time, it was the Rapporteur of the Majority who stated: “*In Germany bodies of the Polity participate in a relevant committee representing the minority in the organ*”. The second time, the Minister of the Presidency of the Government, stated: “*In Western Germany, state participation represents the minority [in the organ], something that almost tends to happen in our case too*”. These references are vague, and not easily understood in case someone is not acquainted with the German legislation.

¹⁴¹ The German Constitution establishes a dual system of broadcasting – public as well as commercial – operating under the jurisdiction of the German Länder. This decentralised system was the result of an all-round consensus justified by the need to avoid the use of the media for propaganda purposes by a one-party government as in the period of the Nazi dictatorship. Furthermore, separate authorities regulate the public and private broadcasters at the Länder level. There are fourteen State Media Authorities monitoring commercial radio and television at State level, whereas State laws provide for the composition of their boards and the selection mechanism. They are pluralistically composed councils nominated by societal groups – the political parties included –, specified in the media laws, and state parliaments. Nevertheless, the representatives of the political parties and state parliaments constitute a minority in the organs. The public broadcasters are monitored by internal pluralistic bodies composed of elected representatives from the federal legislature, political parties, trade unions, religious communities and business and cultural organisations. Yet, according to the Independent Study on “indicators for Media Pluralism in the Member States – towards a risk based approach”, “*there has repeatedly been criticism as well as legal challenges against the inclusion of party representatives*” since there seems to be an “*incompatibility of political mandate with membership in media advisory or regulatory bodies*” (Preliminary Final Report prepared for the European Commission, 2009). Available at: http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/pfr_report.pdf, date of access: 01.07.2010. There is a continuing debate over the reform of broadcasting regulation in Germany. More specifically, there are reform proposals suggesting that the regulation of the commercial and public broadcasting should be transferred to the State Media Authorities, whereas the representative character of the boards should be substituted for expert councils (Expertenräte). Information available at: <http://www.opendemocracy.net/public-service-broadcasters-under-pressure-german-broadcasters-face-convergence>, date of access: 01.07.2010, Television across Europe: Regulation, Policy and Independence, Open Society Institute, Monitoring Reports, 2005, available at: http://www.soros.org/initiatives/media/articles_publications/publications/eurotv_20051011/summary_20051011.pdf, date of access: 01.07.2010, The Official Website of the State Media Authorities for Broadcasting in Germany, available at: <http://www.alm.de/338.html>, date of access: 01.07.2010, European Platform of Regulatory Authorities, available at: www.epra.org, date of access: 01.07.2010, Information note on Public Service Broadcasting in Germany, available at: <http://www.legco.gov.hk/yr05-06/english/sec/library/0506in27e.pdf>, date of access: 1.07.2010

¹⁴² According to its official website “*the Federal Communications Commission (FCC) is an independent agency established by the Communications Act of 1934, and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. It is directed by five Commissioners appointed by the President and confirmed by the Senate for 5-year terms*”. Consequently, the appointments clause is consistent with Article 2, Section 2 of the U.S. Constitution. Information available at: <http://www.fcc.gov/aboutus.html>, date of access: 14.10.2010.

¹⁴³ According to the Canadian Radiotelevision and Telecommunications Commission Act, (R.S., 1985, c. C-22) “3. (1) *There is hereby established a commission, to be known as the Canadian Radiotelevision and Telecommunications Commission, consisting of not more than thirteen fulltime members and not more than six part-time members, to be appointed by the Governor in Council*”. Available at: <http://laws.justice.gc.ca/PDF/Statute/C/C-22.pdf>, date of access: 14.10.2010. The clause follows the common practice applied to all appointments in the executive, as described hereafter: “Officials from the sponsoring Minister's Office must consult with the Director of Appointments in the Prime Minister's Office prior to transmitting a recommendation for appointment to the Governor in Council. Officials preparing a recommendation must also consult their legal advisor to ensure that the recommendation meets the requirements of the law. Governor in Council appointments are made by the Governor General, on the advice of the Queen's Privy Council of Canada. Information available at:

Ireland¹⁴⁶, relevant legislation allocated the power of the nomination and appointment to the executive, or to put it differently, the legislative texts did not violate the respective constitutional constraints regarding the appointment of public officials, as was the case with Greece. The Greek legislator¹⁴⁷ was inspired by an unfamiliar appointments system deriving from the German corporatist tradition combined with the specific historical conditions in Germany after World War II. Moreover, the appointments clause claimed pan-European originality in the sense that the majority of the members of the board were directly nominated by the political parties¹⁴⁸.

b. The National Council for Radio and Television, Law 2173/1993: Phase II – Embrangling the organ of the Conference of Presidents of Parliament in the selection mechanism

i. The Appointments Clause

Shortly after the victory of the socialist party (PASOK) in the premature elections of October 10, 1993¹⁴⁹, the newly elected government amended article 2 of the law 1866/1999. The amended appointments clause constituted a composite act, comprising two phases: i) direct nomination of the members and their alternates by the political parties, and nomination of the President and his alternate by the Speaker

<http://www.pco.bcp.gc.ca/index.asp?lang=eng&page=secretariats&sub=oic-ddc&doc=procedure-processus-eng.htm#n11>, date of access: 14.10.2010.

¹⁴⁴ The Media Act of 1987 in Netherlands provided that “*The Media Authority shall consist of a chairperson and two or four other members. They shall be appointed and dismissed by Royal Decree upon the recommendation of Our Minister*”. Available at: <http://www.lexadin.nl/wlg/legis/nofr/eur/arch/ned/mediaact.pdf>, date of access: 14.10.2010.

¹⁴⁵ According to the Official Website of OFCOM, the all-encompassing Communications Regulator in the U.K., “*the Independent Television Commission (ITC) was formed by the Broadcasting Act of 1990 to replace the television regulation functions of the Independent Broadcasting Authority (formed by the Broadcasting Act 1954) and Cable Authority*”. In both regulators the members of the boards were appointed by the competent Ministers. Available at: http://www.ofcom.org.uk/static/archive/itc/about_the_itc/the_structure/index.html, date of access: 14.10.2010.

¹⁴⁶ According to the Radio and Television Act, of 1988 “*There shall stand established, on such day as the Minister by order appoints a body to be known as An Coimisiún Um Raidió agus Teilefís Neamhspleách [the Independent Radio and Television Commission]*”. Information available at: <http://www.dcenr.gov.ie/NR/rdonlyres/5614BA26-80E0-4C8C-A36E-45A0C9B4008A/0/RadioandTelevisionAct1988.pdf>, date of access: 14.10.2010

¹⁴⁷ As early as the mid-1970s, Greek scholars were influenced and acquainted with the German model. With regard to the monitoring of public broadcasting, Georgios Koumandos stated: “*The proposed solution is: the constitution of a broad council for radio and television where various social groups could be represented, groups of different structure and function. This council would purposely be multimember and heterogeneous – this would precisely serve the purposes of internal representativeness and polyphony in order to reduce to the greatest possible extent any chance of effective governmental pressures*” (Koumandos, 1975).

¹⁴⁸ In Germany as well as in other jurisdictions, which partly adopted the system of party representation in the boards of relevant authorities in the 1990s, the political parties indirectly participated in the nomination of their representatives, that is, through parliamentary procedure (Robillard cited in Oikonomou, 1999). The MP of Pasok Nikolaos Sifounakis, in his speech, supported this option instead of the system of direct nomination.

¹⁴⁹ On September 9, 1993, Georgios Simpilidis, Member of Parliament with the parliamentary group of New Democracy, declared himself independent, and the Mitsotakis government lost parliamentary majority.

of Parliament upon proposal of the Conference of Presidents, and ii) official appointment with an executive veto by the competent Minister¹⁵⁰.

ii. Discussions in Parliament, comments and interpretation

The discussions and debates of the draft law¹⁵¹ “Reconstitution of the National Council for Radio and Television, establishment of the National Committee for Electronic Mass Media¹⁵²” in principal and in particulars in the Greek Parliament¹⁵³, proved that the political parties in Parliament succeeded in achieving a co-decisional procedure for the appointment of the president of the National Council for Radio and Television and his alternate, through the collective parliamentary organ of the Conference of Presidents. The initial proposal of the government regarding the appointment of the President and his alternate provided that it was the Speaker of Parliament who would nominate them. However, many MPs of the major opposition, as well as some MPs from the governing party disagreed with the measure. They argued that any weaknesses of the Council would be assigned to the Speaker whose high prestige should be protected against party antagonisms and confrontations. As for criticisms expressed against the members’ direct nomination by the political parties, the Rapporteur of the Majority, Dimitrios Palaiothodoros (PASOK), blamed the major opposition for hypocrisy.

The first amendment of the appointments clause of the National Council for Radio and Television proved to be even more innovative and original compared to its initial version. First, it diverged from its German prototype in the sense that the socially relevant groups, with the exception of the political parties, were excluded from the selection mechanism. Second, the power of the nomination of the President of the authority and his alternate was initially allocated to the Speaker of Parliament, and

¹⁵⁰ The Minister had the discretion to scrutinize the nominations, thus rejecting any proposal that was contrary to the preconditions set forth in article 2, par. 4 of the law. Finally, the official act of the appointment should be a presidential decree and not a ministerial decision since according to the Code of Civil Servants in force “*high ranking civil servants shall be appointed by presidential decree*”.

¹⁵¹ See Appendix 2, 2 for abstracts from the discussions.

¹⁵² Art. 2 of law 2173/1993 transferred the representatives of the socially relevant groups provided for in the law 1866/1999 to the newly established National Committee for Electronic Mass Media. It was a broad collective organ constituted by the members of the National Council for Radio and Television and the members of social groups under a common president, that of the NCRTV. Its competences were rather vague since it was the NCRTV that would decide whether issues of major interest pertaining to its competences should be relegated to the National Committee for Electronic Mass Media. The inactivity of the organ led to its disbandment (Law 2644/1998, art. 23), and, instead, the NCRTV could occasionally take the opinion of the socially relevant groups (Law 2644/1998, art. 15, par. 4).

¹⁵³ Minutes of Parliament, 8th Period (of Presidential Parliamentary Democracy), First Assembly, Session 24 discussion and debate in principal February 8, 1993, and Session 25, discussion and debate in particulars February 9, 1993 available at: <http://www.hellenicparliament.gr/Praktika/Synedriaseis-Olomeleias?search=on&DateFrom=07%2F12%2F1993&DateTo=10%2F12%2F1993>, date of access: 07.07.2010. The draft law was marked as urgent by the Government. According to the Minutes of the Standing Committee on Public Administration, Public Order and Justice, the Rapporteur of the Major Opposition, Vasilis Magginas, criticised the government for its practice to urgently pass legislation of such relevance. Available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=0a73af1a-5ea7-4626-83e3-5ab4fe997f6d, date of access: 07.07.2010.

finally to the collective organ of the Conference of Presidents of Parliament. Nevertheless, such nomination competences were not provided for in the Constitution.

The Scientific Report of Parliament expressed no reservations in relation to the constitutionality of the appointments clause. It simply restricted itself to comments of a purely theoretical value revolving around the abolition of the internal plurality of the organ, on the one hand, and the enhancement of the arithmetic predominance of the party of the majority through the allocation of the nomination power to the Speaker of Parliament. More specifically, the text of the report rather sought to stigmatise the legislator's inconsistency with theoretical views¹⁵⁴ which emphasized that the need for the internal plurality of the organ was a constitutional demand.

The Rapporteur of the majority acknowledged the fact that the authority was not constitutionally consolidated, and, in our opinion, that remark was indirectly linked not only to accountability considerations, but also to the issue of the selection mechanism. Nevertheless, a functionalist approach was once more applied to justify the governmental choices. Thus, the idea of a joint participation of all the political parties and the Speaker of Parliament in the nomination-selection procedure created a new perception of the actors who would be accountable to the people. A principle of collective accountability incorporating the whole political system is introduced, thus substituting the classical idea of the political responsibility of the elected government for this new perception of political accountability. Moreover, the independence of the authority from the government was further guaranteed by allocating the authority of nomination-selection to the Speaker of Parliament.

Interestingly enough, the special speaker of the Political Spring (Polan), suggested that the Parliament should elect the members of the authority by a qualified majority of three-fifths. The proposal was equally unconstitutional, but it reflected the emerging functionalist theoretical views and trends which constituted the new orthodoxy of appointments in the case of independent authorities. On the other hand, opposition MPs as well as majority MPs put pressure to achieve interparty participation in the process of the nomination of the president and his alternate. With regard to the tension created with respect to the enhancement of partisanship in the Council, and the exclusion of the social groups from its composition, the Rapporteur of the majority disclosed information. He claimed that they had reached consensus on those issues during the discussions in the Standing Committee.

Finally, the deputy Minister of the Presidency of the Government, Evangelos Venizelos, satisfied the camouflaged demand of the MPs to create an interparty nomination procedure for the president and his alternate. He proposed the interference of the collective organ of the Conference of Presidents of Parliament in the selection mechanism. All MPs welcomed the new proposal. Moreover, the MP of the major

¹⁵⁴ The Scientific Report cites relevant references to prove that many Greek scholars had supported such views. The legislator himself, the deputy Minister of the Presidency of the Government, Professor Evangelos Venizelos, stated in an article which made reference to the appointments clause of the law 1866/1989 that: *"The constitution of that organ [the National Council for Radio and Television] and the selection mechanism of its members do not positively predispose for the degree of the de facto personal and functional independence of their members. On the other hand, this internal plurality regarding the constitution of the organ is in itself a positive evolution and a considerable safeguard"* (Venizelos, 1989).

opposition, Vassilios Magginas, tried to decode the exact procedure they had to adopt since the appointments clause was not transparent on the issue. He suggested that, after consultation among representatives of the political parties, their proposals would be submitted to the Conference of Presidents, which, in turn, would formulate an opinion, and the Speaker of Parliament would finally decide.

iii. The organ of the Conference of Presidents

One of the major innovations of the Standing Orders of 1987 was the introduction of the collective interparty organ of the Conference of Presidents of Parliament¹⁵⁵. The main duties assigned to it under the Standing Orders were to take decisions on the organization of Parliament's work and issues of legislative planning and parliamentary review. At the time of the discussions of the draft law, the body was composed of the Speaker of Parliament, as President, the Deputy Speakers of Parliament, the Presidents of the standing and special committees, the Presidents of the Parliamentary Groups¹⁵⁶, and one independent MP as representative of the independents. The organ took its decisions by the absolute majority of the present members, unless otherwise specified by other provisions of the Standing Orders. In the case of a tie vote, a casting vote is given to the president of the body, that is, the Speaker of Parliament.

The amendment of the Standing Orders in 1987 represented a wide reform in the whole operation of the Hellenic Parliament. The innovative institutions of the interparty Chair and the Conference of Presidents introduced the perception of a consensual approach in the organisation and function of Parliament. The establishment of the organ of the Conference of Presidents¹⁵⁷, which intervenes in the organisation of the discussions in Parliament in relation to the legislative work and parliamentary review, was inspired by relevant institutions in the European Parliament, France, Belgium, and other jurisdictions. With regard to its composition, the legislator imitated the French paradigm¹⁵⁸, at least at this introductory phase of the

¹⁵⁵ Standing Orders of the Greek Parliament, Chapter 4, article 13 entitled "Composition-convocation", and article 14 entitled "Competences" (Government Gazette, vol. A', no 106/24.06.1987).

¹⁵⁶ During the discussions held in Parliament on the amendment of the Standing Orders in 1987, Athanasios Kanellopoulos, MP of New Democracy, clarified the term "Presidents of the Parliamentary Groups" by stating that: "*The President of the parliamentary section or the parliamentary group is not the President of the party. The President of the party is a broader concept which covers both parliamentarians and non-parliamentarians. The President of the parliamentary group is identified with the Parliamentary Representative. He is the one the Germans call "Fraktionsvorsitzender". That is its characteristic. We call the President of the party, President of the parliamentary group*". Minutes of Parliament in Plenary, Session 131, June 3, 1987, p. 6659.

¹⁵⁷ Virginia Tsouderou, an independent MP who collaborated with the right wing party of New Democracy in the national elections of 1985, was against the system of organised discussions in Parliament. She stated that: "*When most discussions in Parliament shall be held according to the system of organised discussion following the decisions of the Conference of Presidents, the backbenchers will have no possibility to speak; they will be even more dependent on their parties, on the allocation that their parties will do. If an MP has a different opinion on an issue, an opinion which creates a problem for his party, he will not be able to express it since he will not be assigned to give a speech. Thus, the independence of the backbencher is even more degraded, and progress is harmed since in essence original-unorthodox opinions will not be heard*". Minutes of Parliament in Plenary, Session 129, June 1, 1987, p. 6594.

¹⁵⁸ The Conference of Presidents was created in 1911. According to the Standing Orders of the French National Assembly: "*The following are members by right: the President of the National Assembly, who convenes the Conference and presides over it; the six Vice Presidents; the Chairmen of the six standing*

institution. Nevertheless, the voting system adopted by the organ followed the normal parliamentary procedure, which assumes that each member's vote carries equal weight, and thus was differentiated from the French model or the one adopted by the relevant organ of the European Parliament. Despite the fact that voting is rare at the Conference of Presidents in France, the Presidents of the Parliamentary Groups, in case there is a voting process, are allocated “*a number of votes equal to the number of members of the group*” according to Rule 48, par. 7 of the Standing Orders. A similar weighted voting system based on the number of members in each political group is adopted by the Conference of Presidents of the European Parliament¹⁵⁹.

Yet, the Conference of Presidents of the Hellenic Parliament was not constitutionally consolidated, and thus its fluctuating composition could be amended by the Standing Orders. Moreover, it did not have the representative character of the other parliamentary committees, in the sense that it was not established in proportion to the strength of parties, groups and independents in Parliament, as prescribed in article 68, par. 3 of the Constitution¹⁶⁰. Thus, the governing party on its own had the majority of the three-fifths in the organ¹⁶¹. However, the allocation of a competence regarding the formulation of an opinion for the selection of high ranking public functionaries in the organ of the Conference of Presidents constituted, and still constitutes a worldwide originality.

iv. The jurisprudence of the Council of State

Not surprisingly, the appointments clause was challenged in court. The Decision No 944 of the year 1999 of the Division E of the Council of State¹⁶² is of great interest since the Court applied a formalist approach on separation of powers issues. However, the Division E referred the case to the Plenary Session of the Court due to its relevance. The Decision No 656 of the year 2000¹⁶³ of the Council of State in Plenum reversed the decision of the Division E based on a purely functionalist approach.

committees and, where applicable, of a special committee; the chairmen of the groups. In addition there is the general Rapporteur of the Finance Committee and, since 1995, the Chairman of the Delegation for the European Union, a sign of the influence acquired by this body. The Government is represented on the Chairmen's Conference by one of its members, customarily the minister tasked with relations with Parliament”. Available at: http://www.assemblee-nationale.fr/english/main_bodies.asp#1_4_3, date of access: 17.10.2010.

¹⁵⁹ According to Rule 24, par. 1, 3 and 4 of the Rules of Procedure of the European Parliament: “*The Conference of Presidents shall consist of the President of Parliament and the Chairs of the political groups. The Chair of a political group may arrange to be represented by a member of that group. The Conference of Presidents shall endeavour to reach a consensus on matters referred to it. Where a consensus cannot be reached, the matter shall be put to a vote subject to a weighting based on the number of Members in each political group*”. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+RULES-EP+20100705+RULE-024+DOC+XML+V0//EN>, date of access: 17.10.2010.

¹⁶⁰ Article 68, par. 3 of the Constitution 1975/1986 read as follows: “*Parliamentary and investigation committees, as well as Sections of Parliament specified in articles 70 and 71 shall be established in proportion to the strength of parties, groups and independents, as specified by the Standing Orders*”.

¹⁶¹ Many MPs of the major opposition, the right wing party, had stressed the lack of representativeness of the organ during the discussions on the amendment of the Standing Orders in 1987. Minutes of Parliament in Plenary, Session 131, June 1, 1987, pp 6659.

¹⁶² Decision 944/1999, E Division of the Council of State, available at: <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 18.10.2010.

¹⁶³ Decision 656/2000 of the Council of State in Plenum, available at: <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 18.10.2010.

More specifically, the party of the Democratic Social Movement submitted a request for annulment of the ministerial decision regarding the constitution of the National Council for Radio and Television since it was not represented in the Council despite the fact that it had entered Parliament, and obtained nine seats¹⁶⁴ in the national elections of 1996. The Court judged that a major constitutional issue was raised in relation to the nomination of the members of the Council by the political parties, and exercised an incidental review irrespective of the reasons invoked in the request for annulment¹⁶⁵. The majority of the Court opined that: “. . . *The fulfilment of the purposes of state scrutiny over radio and television, that is, the safeguard of the impartiality and the level of the quality of their programmes, is directly linked to the proper structure of the state organ where the scrutiny of the programmes is assigned. The nature of this scrutiny is demonstrably administrative, and consequently the organ pertains to the executive power according to the constitutional demand, and irrespective of whether it pertains to the administrative hierarchy. On the other hand, under the current system of impartial and professional Administration, the supervisory organ, if it is collective, should be constituted, by majority, by public functionaries having acquired the relevant qualifications, and appointed through a procedure guaranteeing their personal independence. Moreover, according to the principle of the separation of functions, the appointment, and generally the nomination of the administrative organs takes place within the state, and through a selection assigned to its organs. The participation of the parties or other private organizations in this procedure is constitutionally impermissible. The parties are political organizations clearly distinct from the state, and therefore, it cannot be considered that they may express its will. Consequently, the political parties cannot nominate members of collective administrative organs of the state*”.

It is obvious that the Court interpreted the Constitution in a strict manner, and invoked the principle of the separation of powers, thus applying a formalist approach towards the constitutionality of the appointments clause. Thus, the Council was considered as a collective administrative organ¹⁶⁶ pertaining to the executive branch of government, irrespective of the existence or lack of hierarchical oversight. Consequently, the nomination and appointment of its members should only be assigned to organs of the state, that is, individual or collective organs of the executive¹⁶⁷. Therefore, the Court

¹⁶⁴ The party took 4,43% of the votes and occupied the fifth place in Parliament. Nevertheless, the law 2173/1993 did not provide for the representation of a fifth party in the constitution of the National Council for Radio and Television. The MP of Pasok, Nikolaos Sifounakis, had already expressed his concern regarding the numerus clausus of the political parties that could nominate their representatives in the Council during the discussions of the initial appointments clause of the law 1866/1989. Moreover, the Scientific Report of Parliament on the draft law “*Reconstitution of the National Council for Radio and Television, establishment of the National Committee for Electronic Mass Media*” had equally stressed the impact of future electoral results on the nomination procedure by the political parties.

¹⁶⁵ The majority of the Court equally opined that the ministerial decision should be annulled since the Appointments Clause was unconstitutional on the grounds that it violated the principle of the equal treatment of the political parties.

¹⁶⁶ However, the Council of State in its Decision 872/1992 in Plenum opined that the National Council for Radio and Television was not a collective administrative organ pursuant to article 40, par. 1 of the law 1884/1990. The Court concluded that the Council was an independent administrative authority, which “*could not be submitted to any hierarchical oversight or state supervision in the exercise of the work assigned to it*”.

¹⁶⁷ The Court held that the appointments clause violated art. 15 par. 2 and art. 26 par. 2 of the Constitution of 1975/1986. Art. 15 par. 2 read as follows: “*Radio and television shall be under the*

held that the participation of the political parties or other private organizations in such nominating procedures was unconstitutional¹⁶⁸. Interestingly enough, the majority of the Court within the formulation of its decision avoided to explicitly express any opinion on the constitutionality of the Speaker's competence to nominate the President of the Council and his alternate upon the proposal of the Conference of Presidents. Nevertheless, we could assume that when the Court judged that "*the nomination of the administrative organs takes place within the state, and through a selection assigned to its organs*" it indirectly implied that the nomination of the President by the Speaker of Parliament upon proposal of the Conference of Presidents, namely, organs of the legislative power, was constitutionally permissible. In our view, the Court avoided making a direct reference on the issue, since any further argumentation would have led to functionalist improvisations.

On the contrary, two judges, Randos and Mantzouranis dissenting, held that the appointments clause was constitutional based on a functionalist argumentation. They distanced themselves from the strict interpretation of the principle of the separation of powers twice. First, they argued that the Constitution did not expressly exempt the political parties from the nomination procedure. Second, they claimed that the Constitution did not expressly exempt the Speaker of Parliament upon proposal of the Conference of Presidents from the nomination of the President. The justificatory basis for both arguments was inevitably functionalist. In their opinion, the nomination of the members by the political parties, which constituted fundamental factors/aspects of the representative system, could guarantee the constitutional demands for the observance of the principles of impartiality and equal treatment in the transmission of information and news reports, as well as of works of literature and art, and, in general, the fulfilment of the social mission of radio and television. On the other hand, they claimed that the special institutional role of the Speaker of Parliament justified the allocation of the power of nomination. Nevertheless, the expression "the Constitution did not expressly exempt" either the political parties or the Speaker of Parliament from the nomination procedure seemed to disregard the formalist rule of construction "*espressio unius est excludio alterius*" (the expression of one thing is the exclusion of the other).

The decision 944/1999 of the Council of State provoked tremendous reactions on the part of the Greek scholars, thus receiving negative comments (Oikonomou, 1999; Kamtsidou, 1999; Iliadou, 2000; Voutsakis, 2000;). They applied a functionalist approach in order to defend their views. Therefore, they argued that the institution of the independent authorities constituted an institutional *novum* exercising simultaneously multiple functions -executive, legislative and adjudicatory-, and thus concluded that they did not pertain to the executive branch of government. The complexity of those functions imposed the nomination of individuals who possessed expertise or previous experience in the broadcasting field. Consequently, they rejected

direct control of the State, and their aim shall be the objective and on equal terms transmission of information and news reports, as well as of works of literature and art; however, the quality level of programs mandated by the social mission of radio and television and by the cultural development of the Country, should be guaranteed". Art. 26 par. 2 read as follows: "The executive powers shall be exercised by the President of the Republic and the Government".

¹⁶⁸ The term "other private organisations" might raise issues of constitutionality in relation to those clauses which permit the nomination of members of collective administrative organs by trade unions or other non state organisations.

the Court's view that the members of the Council should be selected among serving high ranking public functionaries since that principle could jeopardise the functional and personal independence of its members. In other words, they supported that the differentiation of the selection criteria and the participation of the political parties in the nomination procedure contributed to a large extent to the disconnection of the organ from the governmental majority¹⁶⁹, thus providing for a broader legitimising basis. They emphasized the fact that the political organisations participate in public activities as well as in society, and thus they pertain to the public sphere, not the private one. It is evident that the Greek scholars were clearly influenced by the primordial role of the political parties in the German constitutional system. Finally, they praised the view of the two dissenting judges in relation to the role of Parliament and its organs in the nomination of the members of the National Council for Radio and Television.

Did these theoretical views and the dissenting opinions of the judges pave the way for the reversal of the decision 944/1999 of the Council of State? Indeed, the Court in Plenum rejected the request for annulment, and held that the appointments clause was constitutional. The decision 656/2000¹⁷⁰ of the Council of State was purely functionalist in its approach. Interestingly enough, there were no dissenting opinions with regard to the constitutionality of the nomination procedure provided for in the appointments clause¹⁷¹. Therefore, the Court unanimously opined that *“. . .the legislator in order to fulfil the targets set by article 15 par. 2 of the Constitution, foresaw the constitution of that institutional organ by personalities of the public life nominated by the political parties based upon appropriate for the exercise of state scrutiny formal and substantial qualifications, which the parties compulsorily take into consideration in the formulation of their proposal to the Minister of Press and Mass Media. This proposal of the parties is submitted, within the meaning of the law, to a legality review by the Minister, who is not obliged to accept the proposal of an*

¹⁶⁹ Kamtsidou (2000) states *“the pluralistic composition of the authority enhances its independence from the governmental apparatus, even if it does not ease the fears over the substitution of politics for partisan dependence”*.

¹⁷⁰ The Conference was held in Athens, on November 5, 1999 and the decision was published in the public session of February 4, 2000. Christos Geraris, then President of the Council of State, was appointed President of the Hellenic Data Protection Authority in 2008 (Government Gazette, vol. Y.O.D.D., no 125/20.03.2008)

¹⁷¹ On the contrary, five judges, dissenting, with regard to the issue of the equal treatment of the political parties, opined that *“the provision of the law, which allows only four political parties represented in Parliament to participate in the nomination procedure of the members of the National Council for Radio and Television, violates the principal of equality. The law should have foreseen a system of participation in the procedure for the proposal of the constitution of the NCRTV that would permit the participation of all the political parties currently elected in Parliament according to their strength. Moreover, the mandate of the members of the organ should be appropriately formulated in accordance with the four-year mandate of the Parliament. This is justified by the important competences of the NCRTV within the scrutiny of radio and television, on the one hand, and the considerable influence of the media in the formulation of the public opinion, and thus the empowerment or the enfeeblement of the political parties, on the other”*. On the contrary, the majority of the Court held that the clause was constitutional since the legislator judged abstractly and in advance that the right for the proposal of the members of the NCRTV is allocated to the four biggest in number of parliamentary seats political parties, whereas he took into account the possibility of parliamentary representation by fewer political parties than the four initially anticipated. Moreover, the Court estimated that the disturbance of the proper operation of the NCRTV due to political changes should be avoided, and thus opted for a stable number of political parties which could participate in the nomination procedure. Available at: <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 18.10.2010.

individual that does not fulfil the preconditions of the law. . .The Council exercises these functions under a status of independence not only towards the political parties that nominated its members, but also towards the government, which does not possess the power of hierarchical control. . .Thus, the National Council for Radio and Television is constituted by the common legislator as an independent administrative authority destined to fulfil the function provided for in article 15 par. 2 of the Constitution, and, consequently, it is, in principal, consistent with it”.

The opinion obviously distanced itself from any considerations regarding the principle of the separation of powers, and directly held as constitutional the allocation of state control provided for in article 15 par. 2 of the Constitution to an independent administrative authority. Consequently, the legislator had the discretion to specify the nomination and appointment procedure unfettered by separation of powers considerations since the authority did not pertain to the classical type of an agency of the executive. In other words, it was the special nature of the independent authorities which permitted deviation from the strict implementation of the appointments clause of the Constitution, and the principle of the separation of powers. The functionalist approach of the Court was neither enough elaborated nor contrasted to opposing views in order to reach and fully justify its final decision. On the other hand, the Court seemed to mitigate or degrade the responsibility of the political parties in the selection mechanism since the executive veto of the Minister and the issue of the formal appointment act by an organ of the state gave the impression that the appointments clause was consistent with the demands of the constitution. Nevertheless, the spirit of the law seemed to assign the responsibility for the selection of the members of the Council to the political parties (Oikonomou, 1999).

c. The Supreme Council for the Selection of Personnel, Law 2190/1994: Implementing multiple selection mechanisms

i. The Appointments Clause

The Supreme Council for the Selection of Personnel (ASEP) was established under the law 2190/1994 as an independent authority to guarantee i) transparency in the public servants' selection process, ii) the application of merit criteria combined with the fulfillment of specific national and social needs, and iii) the avoidance of redundant expenses, thus reducing public spending. Article 4 of the said law provided for the selection mechanism and the members' –Councillors'– profile. The appointments clause provided for two distinct selection mechanisms. The first process would be applied only once, that is, during the first constitution of the organ, whereas the second would be permanently implemented. Both selection mechanisms consisted of two phases: i) the selection of the President and Vice-President, and ii) the selection of the Councillors. Each phase constituted a composite act. The first phase of the first selection mechanism comprised i) nomination by the competent Minister, ii) legislative confirmation –partly with legislative veto– by the Conference of Presidents, and iii) official appointment by presidential decree upon proposal of the competent Minister. The second phase comprised i) nomination by the heads of the authority, ii) selection by the competent Minister, and iii) official appointment by presidential decree upon proposal of the competent Minister. The first phase of the second selection mechanism comprised i) selection of the heads of the board among the members of the Council (cooptation), and iii) official appointment by presidential

decree upon proposal of the competent Minister. The Minister had the discretion to scrutinize the selected individuals, thus rejecting any proposal that was contrary to the procedure set forth in the ministerial decision of article 4, par. 5 of the law. The second phase of the second selection mechanism comprised i) selection of the Councillors by the Council in plenum through public announcement (cooptation), and ii) official appointment by presidential decree upon proposal of the competent Minister with an executive veto. The Minister had the discretion to scrutinize the selected individuals, thus rejecting any proposal that was contrary to the procedure set forth in the ministerial decision of article 4, par. 5 of the law¹⁷².

ii. Discussions in Parliament, comments, and interpretation

The discussions and debates of the draft law¹⁷³ “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*” in principal and in particulars in the Greek Parliament¹⁷⁴ provoked tension among the MPs in relation to the composition of the Council, and the relevant selection mechanisms. Nomination by the executive and the cooptation system were the main controversial issues. The Explanatory Report¹⁷⁵ stated on the issue of cooptation: “*Functional independence is guaranteed through the autonomy of the board hereafter to select the president, vice-president, and its members on its own, thus to be self-reproduced without any governmental interference with the exception of its first constitution*”.

The Scientific Report of Parliament¹⁷⁶ expressed no reservations on the constitutionality of the cooptation system for the selection of the members of the board of the authority. Cooptation is a selection model according to which the members of an organ or committee decide on the appointment of new members or colleagues. The procedure is implemented in the election and/or promotion of judges, university professors, and members of academies. In his speech, the Minister of the Presidency of the Government explained that the Council of State was the source of inspiration for the proposed selection mechanism, and thus erroneously, in our

¹⁷² Article 4, par. 5 of the law 2190/1994, provided for “*a regulative ministerial decision issued upon proposal of the Council in plenum and published in the Government Gazette specifying the procedure for the submission of candidacies and selection and any other necessary detail for the implementation of the previous paragraphs 3 and 4*”.

¹⁷³ See Appendix 2, 3 for abstracts from the discussions.

¹⁷⁴ Minutes of Parliament, 8th Period (of Presidential Parliamentary Democracy), First Assembly, Sessions 53 and 54 discussion and debate in principal February 2nd, and February 3rd, 1994, and Session 57, discussion and debate in particulars February 8th, 1994 available at: <http://www.hellenicparliament.gr/Praktika/Synedriaseis-Olomeleias?search=on&DateFrom=01%2F02%2F1994&DateTo=10%2F02%2F1994&SessionPeriod=92766fef-d4d2-4a56-a754-3081dfb67589>, date of access: 25/06/2010.

¹⁷⁵ The Explanatory Report of January 12th, 1994 that accompanied the draft law “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*” available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=8a98f188-db06-4992-b959-92ebac1856e8, date of access: 25/06/2010.

¹⁷⁶ The Scientific Report of Parliament of 01.02.1994 on the draft law “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*”. Available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=8a98f188-db06-4992-b959-92ebac1856e8, date of access: 20.10.2010.

opinion, equated the new authority with a court of justice. Nevertheless, he acknowledged that the cooptation model, as applied in the supreme courts, did not represent a pure version of the model since the Presidents and Vice-Presidents were appointed by the executive. Thus, the common legislator conceded to an independent authority, which was not consolidated in the Constitution, a pure self-reproducing selection mechanism that the constitutional legislator had systematically denied to the judicial branch of government, that is, the judges within the separation of powers system¹⁷⁷.

Interestingly enough, with regard to the selection process regarding the first constitution of the organ, many MPs from the parties of New Democracy, the Communist Party, and Pasok expressed their disagreement with the nomination and appointment of the members by the executive based on the functionalist argument that the independence of the organ would be jeopardised by the interference of the government in the selection mechanism. Thus, they proposed that the political parties and/or trade unions should nominate their representatives in the organ, obviously inspired by the relevant appointments clause of the National Council for Radio and Television. Only the MP from the party of the Political Spring (POLAN) brought back to the discussion the case of the National Council for Radio and Television, namely the equally unconstitutional proposal that Parliament should select the members of the authority by a qualified majority of two-thirds. Under the pressure of the agreement of the majority of the MPs on the issue, the Minister of the Presidency of the Government made a compromising suggestion, and substituted the MPs' demand for a selection mechanism which combined party nomination with representativeness for the Conference of Presidents interparty confirmation. We should remind that neither the Constitution nor the Standing Orders of Parliament provided for the assignment of such competence to that organ. On the other hand, the Conference of Presidents took its decisions by the absolute majority of the present members, unless otherwise specified by other provisions of the Standing Orders. Consequently, the legislator could not provide for qualified majorities since the Standing Orders exclusively specified such special cases. Finally, the part of the discussion with regard to the proposed two candidacies for the posts of the President and Vice-President of the authority represents a characteristic paradigm of interparty bargaining, despite its failure for obvious reasons, that is, the publicity of the session in Parliament.

¹⁷⁷ Greek constitutionalists consider the allocation of the authority of appointing the Presidents and Vice Presidents of the Greek Supreme Courts and the Prosecutor of the Hellenic Supreme Court of Civil and Penal Law to the executive (art. 90, par. 5 of the Constitution) as a deviation from the principle of independence (Dimoulis, 2002). According to that principle "*the organs of each function should possess substantial autonomy in the elaboration and issue of the acts of their function, that is, they should not be subordinated to the control of organs of other functions, which could render the separation of functions context empty*" (Dimoulis, 2002). However, Skouris (cited in Gogos, 2006) justifies the violation of the principle stating that justice should not be completely cut off from the legitimising mechanisms of state power since its apex should be legitimised, through the politically responsible government, by the popular mandate.

d. The Hellenic Data Protection Authority, Law 2472/1997: the MPs' demand for an enhanced role of Parliament in the selection mechanism of the members of the authority

i. The Appointments Clause

The Hellenic Data Protection Authority (HDPa) was founded under the law 2472/1997 as an independent public authority. Its mission is to supervise the implementation of the said law, and all regulations regarding the protection of personal data and privacy of individuals in Greece. Article 16 provided for the members' profile and the selection mechanism. The appointments clause consisted of two distinct procedures: i) the selection of the President, and his alternate, and ii) the selection of the members of the organ. The first procedure provided for the selection of the President and his alternate by the Cabinet upon proposal of the Minister of Justice. On the contrary, the second procedure, constituted a composite act, comprising three phases i) proposal of a double number of nominees in relation to the posts to be covered submitted by the Minister of Justice, ii) legislative confirmation in two stages, that is, formulation of an opinion by the permanent committee on Institutions and Transparency (legislative confirmation without veto power), on the one hand, and final selection by the Conference of Presidents with the absolute majority vote of the members present (legislative confirmation without veto power), on the other, and iii) official appointment by the competent Minister.

ii. Discussions in Parliament, comments, and interpretation

The discussions and debates of the draft law¹⁷⁸ "*Protection of the individual against the processing of personal data*" in principal and in particulars in the Greek Parliament¹⁷⁹, revealed the demand of the MPs for the enhancement of the role of Parliament in the selection mechanism of the heads and members of the data protection authority. The Scientific Report of Parliament¹⁸⁰ expressed no reservations on the constitutionality of the appointments clause with regard to the selection of the members of the authority. We should note that the President and his alternate were selected by the Cabinet upon proposal of the Minister of Justice. According to the formalist rule of the separation of powers and the appointments clause of the constitution, that part of the clause was consistent with the Constitution, whereas the one pertaining to the selection of the members was unconstitutional. The initial text of the appointments clause of the draft law, as incorporated into the Explanatory Report

¹⁷⁸ See Appendix 2, 4 for abstracts from the discussions.

¹⁷⁹ Minutes of Parliament, 9th Period (of Presidential Parliamentary Democracy), First Assembly, Session 95 discussion and debate in principal, March 12, 1997, and Sessions 96, 99, and 100 discussion and debate in particulars, March 13, 18, and 19, 1997 available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/12_03_97.pdf, http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/13_03_97.pdf, http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/18_03_97.pdf, date of access: 10.07.2010

¹⁸⁰ The Scientific Report of Parliament of 21.02.1997 on the draft law "*Protection of the individual against the processing of personal data*". Available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=27da7e14-69cd-49f1-bd4f-742beb40060d, date of access: 21.10.2010

of Parliament¹⁸¹, was almost identical to the selection mechanism of the heads and members of the Supreme Council for the Selection of Personnel, and thus did not provide for the interference of the permanent special Committee on Institutions and Transparency in the selection procedure. Instead, the Speaker of Parliament directly communicated the proposal of the Minister of Justice to the Conference of Presidents for the final selection. It seems that the MPs finally discussed on a version of the appointments clause identical to the one finally adopted.

Interestingly enough, the MPs of all the political parties supported the view that Parliament should nominate and select the heads and members of the authority, thus rejecting the interference of the executive in the nomination process. Nevertheless, the assignment of that competence to Parliament by the common legislator was obviously unconstitutional. Once more the MPs' stance towards the issue had a functionalist orientation, and Anna Psarouda-Benaki was the one who introduced in the discussion the new theoretical trends supporting the nomination and selection of the heads and members of the independent authorities by Parliament. Thus, in her opinion, the parliamentary scrutiny of the authority inevitably legitimized the delegation of the selection mechanism to Parliament. On the other hand, it was the first time that an MP expressed her constitutional reservations relating to the participation of the Conference of Presidents¹⁸² in the selection process of the members of the independent authorities. Thus, she stressed that the organ had competences strictly related to the function of Parliament. Yet, she seemed to ignore that relevant appointment clauses already existed in Greek legislation¹⁸³. Interestingly enough, the interference of the permanent special Committee on Institutions and Transparency in the selection procedure did not seem to raise any constitutional concerns on the part of Mrs Benaki. However, its powers were strictly limited to the parliamentary review of the independent authorities, on the one hand, and the collection of information and elaboration of proposals which would promote transparency in politics and public life, on the other¹⁸⁴. Therefore, the new competence, that is, the formulation of an opinion,

¹⁸¹ The Explanatory Report of Parliament of 21.02.1997 on the draft law "*Protection of the individual against the processing of personal data*". Available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=27da7e14-69cd-49f1-bd4f-742beb40060d, date of access: 21.10.2010

¹⁸² In 1996 the Standing Orders were amended (Government Gazette, vol. A', no 151/08.07.1996). The provision regarding the composition of the Conference of Presidents provided that former Speakers of Parliament who were currently elected in Parliament participated in the organ by right, whereas the presidents of the special committees were excluded from the organ. The President of the permanent Committee on Institutions and Transparency also participated in the organ. It seems that the idea of the inclusion of the former Speakers of Parliament in the organ came from the Belgian Chamber of Representatives. "*There is also a Conference of Presidents, which is one of the most important bodies of the Chamber of Representatives. It consists of the President and the Vice-Presidents of the Chamber, former Presidents of the Chamber who are still members of the Chamber and the floor leader and a member of each fraction. A member of the Federal Government responsible for the relations with the Chamber attends the meetings of the Conference as well. The Conference meets weekly to discuss the day-to-day business and the work of the Chamber*". Available at: http://en.wikipedia.org/wiki/Belgian_Chamber_of_Representatives, date of access: 21.10.2010.

¹⁸³ See the appointments clause of the National Council for Radio and Television, and the clause of the first constitution of the Supreme Council for the Selection of Personnel previously analysed.

¹⁸⁴ The establishment of the permanent special Committee on Institutions and Transparency was provided for in the amended Standing Orders of 1996 (article 43A). It consisted of thirteen MPs established in proportion to the strength of the parliamentary groups (Government Gazette, vol. A', no 151/08.07.1996).

assigned to the Committee was not in accordance with the principle of the separation of powers, and the Standing Orders as in force.

The doubts expressed by Mrs Benaki in relation to the competences of the Conference of Presidents provoked the intervention of the Speaker of Parliament who rather unwittingly unravelled certain irregularities in the exercise of the legislative work. He admitted that Parliament passed legislation assigning competences to Parliament which were not included in the Standing Orders. However, the procedural irregularities were not the alarming part of the statement. The view that the Standing Orders could assign competences to Parliament was a pure misunderstanding that simply disregarded the demands of the Constitution. Following these new competences delegated to the Conference of Presidents and the permanent committee on Institutions and Transparency, the Standing Orders were amended a few months later¹⁸⁵.

As for the jurisprudence, the Council of State in plenary session in the decision 2279/2001¹⁸⁶ held that the appointments clause of the law 2472/1997 was constitutional. Once more functionalism triumphed with updated theoretical support. More specifically, the plaintiffs submitted a request for annulment i) of the decision of the Hellenic Protection Data Authority for the part that concerned the prohibition of the collection and processing of the personal data of creed, and its indication on the identity cards, and ii) the oral statement of the Prime Minister in Parliament on May 14, 2000 concerning the implementation of the said decision of the Authority. The Court exercised an incidental review of the constitutionality of the appointments clause irrespective of the reasons invoked in the request for annulment. The judges opined that “...the establishment of the Authority and its constitution are not contrary to any constitutional provision or principle. Due to the special parliamentary review for the selection of the members of the Authority (with the exception of the President), its constitution stems from the principle of popular sovereignty”. Judges Douvas and Sakellariou, dissenting, opined that “...[these individuals] should be selected through transparent and objective procedures, not by the government, whose acts they control, or by any other organ, directly or indirectly controlled by the authority, but by an organ which disposes of the broadest possible acceptance in a democratic society, e.g. the Parliament. That said, the foreseen by the provisions of article 16 of the law 2472/1997 procedure of the constitution of the Authority which issued the appealed decision is not consistent with the Constitution¹⁸⁷”

¹⁸⁵ As we have earlier stated such competences were not new for the Conference of Presidents, albeit not provided for in the Standing Orders. The amended Article 14 par. e of the Standing Orders read as follows: “[The Conference of Presidents] decides or formulates an opinion on those issues expressly provided for in the Standing Orders or the law”. Article 43A, par. 3 read as follows: “The special permanent committees or their subcommittees may formulate an opinion on those proposed for appointment in certain posts, if this is foreseen by the law. In such a case the provisions of articles 3, 4, and 5 of article 49A are applied”. (Government Gazette, vol. A’, no 258/17.12.1997). These paragraphs of Article 49A provide for the special procedure for the formulation of an opinion.

¹⁸⁶ The Conference was held in Athens, on January 25 and 26, February 9 and 19, March 9, 16 and 20, 2001 and the decision was published in the public session of June 27, 2001. The decision is available at: <http://www.dsanet.gr/1024x768Auth.htm>, date of access: 21.10.2001.

Christos Geraris, then President of the Council of State, was appointed President of the Hellenic Data Protection Authority in 2008 (Government Gazette, vol. Y.O.D.D., no 125/20.03.2008).

¹⁸⁷ At a previous stage of their opinion, they invoked article 2 and 9 of the Constitution. Article 2 of the 1975/1986 Constitution reads as follows: “1. Respect and protection of the value of the human being constitute the primary obligations of the State”, whereas article 9 provides that “1. Every person’s home is a sanctuary. The private and family life of the individual is inviolable. No home search shall be

*and the legislation of the European Community*¹⁸⁸, since all of the members of this Authority are not only nominated by the government (the Minister of Justice) but also selected by the Conference of Presidents of Parliament, that is, by an organ which, due to its constitution and appointment of its members (see article 13 of the Standing Orders of Parliament), is under the direct or indirect influence of the governmental majority, and thus serious doubts are raised with regard to the impartiality of the judgement concerning the individuals that are selected by that organ”.

Despite the fact that both opinions applied a functionalist approach, they reached the opposite conclusion. The judgement of the majority, consistent with relevant theoretical views, legitimised the parliamentary selection procedure through the principle of popular sovereignty, whereas the interference of the executive was constitutionally permissible. On the other hand, the opinion of the dissenting judges linked the independence of the authority to the delegation of the selection of the heads and members to Parliament, thus rejecting any interference of the executive either through the nomination of the candidates or through the selection by organs where the government had the majority. However, that radical view against the interference of the executive seems as a false interpretation of article 28 of the Directive 46/95, and was contradicted by the European Court of Justice in its judgement in Case C-518-07¹⁸⁹ stating that “*the management of the supervisory authorities may be appointed by the parliament or the government*”. Moreover, in many member states of the European Union, the relevant appointments clauses of the national supervisory authorities for data protection provide for the exclusive nomination, selection, and appointment by the executive¹⁹⁰. Finally, we should also take into consideration that by the time the decision of the Court was released in June 2001, the Constitution had already been amended. The new appointments clause delegated the authority of the selection of the members of the five constitutional independent authorities to the Conference of Presidents.

made, except when and as specified by law and always in the presence of representatives of the judicial power”.

¹⁸⁸ Article 28(1) of the Directive 95/46 provides that the national supervisory authorities for personal data shall act with complete independence in the exercise of the functions entrusted to them.

¹⁸⁹ Official Journal the European Union, C 113/3, 1.5.2010, Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:113:0003:0004:EN:PDF>. Full text of the judgement of the Court available at: <http://curia.europa.eu/jurisp/cgi-bin/gettext.pl?where=&lang=en&num=79899690C19070518&doc=T&ouvert=T&seance=ARRET>, date of access: 06.10.2010.

¹⁹⁰ See Appendix 6 containing the competent organs for the nomination, selection and appointment of the heads and members of the national regulatory authorities for the protection of personal data in Council of Europe member states. Denmark, Ireland, Latvia, Lithuania, Malta, Netherlands, Sweden, and the U.K. pertain to the group of countries of the European Union where the authority of nomination, selection, and appointment is allocated to the executive.

e. The Greek Ombudsman, Law 2477/1997: the debate over the constitutionality of the competence of Parliament in the selection mechanism of the Ombudsman

i. The appointments clause

The mission of the Greek Ombudsman, as defined in article 1 of its founding law, is to mediate between citizens and public services, local authorities, public organizations, as defined in article 3, par. 1 of the law, in order to protect citizens' rights, combat maladministration, and ensure legality. Article 2 provided for the qualifications, selection mechanism, and term of office of the Ombudsman and his deputies. The appointments clause constituted a composite act, comprising three distinct procedures: i) nomination by the competent Minister, ii) committee on Institutions and Transparency confirmation without veto power, and iii) selection upon the Cabinet's discretion.

ii. Discussions in Parliament, comments and interpretation

The initial text of the appointments clause contained in the Explanatory Report¹⁹¹ of the draft law submitted to Parliament for discussion, provided that the Ombudsman would be proposed and elected by Parliament according to its Standing Orders by a qualified majority of votes¹⁹². This initial version of the provision had already provoked reservations on the part of the opposition regarding its constitutionality during the preliminary discussions of the draft law in the Standing Committee on Public Administration, Public Order and Justice¹⁹³. Moreover, the Scientific Report¹⁹⁴ on the draft law formulated an opinion on the selection mechanism that cast doubt on its constitutionality by raising certain questions, and thus expressing reservations about its implementation. Three major issues were highlighted in the report.

First, the Standing Orders, as in force, did not contain any provision regarding the institution of the Ombudsman. Consequently, until the revision of the Standing Orders towards that direction, articles 1 to 5 could not be implemented. Second, the

¹⁹¹ Explanatory Report on the draft law "The Greek Ombudsman and the Corps of Inspectors – Controllers of Public Administration", available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 30.07.2010

¹⁹² The full text of the provision read as follows: "2. The Ombudsman shall be proposed and elected by Parliament according to its Standing Orders by a qualified majority of votes. The Deputy Ombudsmen, among whom the Ombudsman's alternate, are elected by the Committee on Institutions and Transparency, upon recommendation of the Ombudsman, according to the majority of votes provided for in the Standing Orders of Parliament...3. The Ombudsman and the Deputy Ombudsmen elected according to the procedure of paragraph 2 of this article shall be officially appointed by presidential decree issued upon proposal of the Minister of the Interior, Public Administration and Decentralisation".

¹⁹³ See Appendix 2, 5 for abstracts from the discussions.

¹⁹⁴ Scientific Report on the draft law "The Greek Ombudsman and the Corps of Inspectors – Controllers of Public Administration", available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 30.07.2010

possibility to grant Parliament or any parliamentary committee through legislative act the power to “elect” organs that, as members of an independent administrative authority, pertained to the executive given that paragraph 3 of the same article provided that after their election the Minister was obliged by law to appoint the elected individuals, seemed problematic. The Rapporteurs of the report argued that any view which supported that such an option could be valid was contrary to the principle of the separation of functions, and consequently the separation of powers that constituted the fundamental canon of the Greek constitutional law.

Third, the possibility to grant Parliament through legislative act and not through constitutional provision the power to provide for a qualified majority in its Standing Orders seemed equally problematic. The Rapporteurs argued that qualified majorities were provided for in the constitution in many cases and covered the whole range of the competences of Parliament (art. 27, par. 1 and 2, art. 28 par. 2 and 3, 32, 34 par. 2, 44 par. 2, 47 par. 3, 48 par. 6, 49 par. 2, 68 par. 2, 70 par. 2, 72 par. 3 and 5, 84 par. 6, 110 par. 2-4)¹⁹⁵. In the Rapporteurs view, those cases introduced exceptions to the

¹⁹⁵ Article 27, par. 1 and 2. of the constitution reads as follows: “1. No change in the boundaries of the Country can be made without a statute passed by an absolute majority of the total number of Members of Parliament. 2. Foreign military forces are not acceptable on Greek territory, nor may they remain in or traverse it, except as provided by law passed by an absolute majority of the total number of Members of Parliament”. Article 28, par. 2 and 3 reads as follows: “Authorities provided by the Constitution may by treaty or agreement be vested in agencies of international organizations, when this serves an important national interest and promotes cooperation with other States. A majority of three-fifths of the total number of Members of Parliament shall be necessary to vote the law ratifying the treaty or agreement. 3. Greece shall freely proceed by law passed by an absolute majority of the total number of Members of Parliament to limit the exercise of national sovereignty, insofar as this is dictated by an important national interest, does not infringe upon the rights of man and the foundations of democratic government and is effected on the basis of the principles of equality and under the condition of reciprocity”. Article 32 provides for the special procedure regarding the election of the President of the Democracy. Article 44, par. 2 reads as follows: “2. The President of the Republic shall by decree proclaim a referendum on crucial national matters following a resolution voted by an absolute majority of the total number of Members of Parliament, taken upon proposal of the Cabinet. A referendum on Bills passed by Parliament regulating important social matters, with the exception of the fiscal ones shall be proclaimed by decree by the President of the Republic, if this is decided by three-fifths of the total number of its members, following a proposal of two-fifths of the total number of its members, and as the Standing Orders and the law for the application of the present paragraph provide. No more than two proposals to hold a referendum on a Bill can be introduced in the same parliamentary term. Should a Bill be voted, the time-limit stated in article 42 paragraph 1 begins the day the referendum is held”. Article 47 par. 3 reads as follows: “3. Amnesty may be granted only for political crimes, by statute passed by the Plenum of the Parliament with a majority of three-fifths of the total number of members”. Article 48 par. 6 refers to certain decisions taken by Parliament by qualified majorities when Parliament, by issuing a resolution upon proposal of the Cabinet, puts into effect throughout the State, or in parts thereof the statute on the state of siege. Article 49 par. 2 reads as follows: “2. A proposal to bring charges against and impeach the President of the Republic shall be submitted to Parliament signed by at least one third of its members and shall require for its adoption a resolution by two-thirds majority of the total number of its members”. Article 68, par. 2 reads as follows: “2. Parliament shall set up investigation committees from among its members by a resolution supported by two-fifths of the total number of members, on the proposal of one-fifth of the total number of members. A parliamentary resolution adopted by an absolute majority of the total number of members shall be required in order to set up investigation committees on matters related to foreign policy and national defence. Details pertaining to the composition and operation of such committees shall be provided by the Standing Orders”. Article 72, par. 3 and 4 reads as follows: “3. The standing parliamentary committee assuming the voting of a Bill or law proposal may, by resolution adopted by the absolute majority of its members, refer any dispute over its competence to the Plenum. The resolution of the Plenum shall be binding on the committees. At least one week must intervene between submission of a Bill or law proposal and its debate in the standing parliamentary committee”. . . 4. A

general rule of article 67 of the constitution that provided: “*Parliament cannot resolve without an absolute majority of the members present, which in no case may be less than one-fourth of the total number of the Members of Parliament. In the case of a tie vote, the vote shall be repeated; in the case of a second tie the proposal shall be rejected*”. Consequently, it would be possible to conclude that due to the lack of other explicit exceptions the general rule of article 67 of the constitution should be implemented in all other cases, at least as far as the introduction of a qualified majority with a common legislative act is concerned. Moreover, in the Rapporteurs view, a particular issue was raised when the special regulation was introduced through the Standing Orders. According to article 65 par. 1 of the Constitution “*Parliament shall determine the manner of its free and democratic operation by adopting its own Standing Orders; these shall be adopted by the Plenum as specified in Article 76 and shall be published in the Government Gazette on the order of the Speaker*”.

The Rapporteurs argued that the article introduced the principle of the autonomy of Parliament and the special character of the Standing Orders as an idiomorphic act of the polity that regulated in an authoritative and exclusive manner all issues regarding the function of the Body, whilst all other matters pertained to the competence of the legislative organ according to article 26 par. 1 of the Constitution¹⁹⁶. Furthermore, the Rapporteurs stressed that in certain cases the Constitution itself gave Parliament the power to foresee through its Standing Orders the details of the implementation of a regulation, thus allowing the Standing Orders to introduce new qualified majorities in case the regulated issue was linked to the internal function of Parliament. For example, they argued that on the basis of the authorising provision of par. 2 of article 65 of the Constitution according to which “*Parliament shall elect from among its members the Speaker and the other members of the Presidium as provided by the Standing Orders*”, article 7, paragraph 3 of the Standing Orders provided for a qualified majority for that election. Furthermore, they claimed that it had been accepted that the Standing Orders might validly introduce qualified majorities regarding decision making procedures related to an internal issue of Parliament even without an explicit constitutional authorisation, as was the case with the election of the Presidents of the Standing Committees according to article 34 of the Standing Orders. Finally, they stated that the main issue raised by the draft law was the following: due to the lack of a special provision in the Constitution that would give Parliament the power to regulate through its Standing Orders the procedure and the probable qualified majority for the selection of the Ombudsman, could it be possible to consider that the said selection fell within the scope of issues related to the internal function of Parliament, and thus the Standing Orders could be exempted from the general rule of article 67 of the Constitution?

Bill or law proposal debated and voted in the competent standing parliamentary committee is introduced in the Plenum in one session, as specified by the Standing Orders of the Parliament, and is debated and voted in principle, by article and as a whole. A Bill or law proposal voted in the committee by a majority of at least four fifths is debated and voted in the Plenum, as specified by the Standing Orders”. Article 84 par. 6 reads as follows: “6. A motion of confidence cannot be adopted unless it is approved by an absolute majority of the present Members of Parliament, which however cannot be less than the two-fifths of the total number of the members. A motion of censure shall be adopted only if it is approved by an absolute majority of the total number of Members of Parliament”. Article 110 par. 2-4 refers to the special procedure regarding the revision of the constitution.

¹⁹⁶ Article 26 par. 1 of the Constitution reads as follows: “The legislative powers shall be exercised by the Parliament and the President of the Republic”.

For the first time, the MPs gave a battle¹⁹⁷, at least ostensibly, over the constitutionality of the proposed appointments clause, that is, the election of the Ombudsman by Parliament in Plenum by a qualified majority. Likewise, the Rapporteurs of the Scientific Report of Parliament expressed serious doubts and concerns over the constitutionality of the clause. Nevertheless, what is, simultaneously, impressive and incomprehensible is that, a few days before, during the discussions on the draft law “*Protection of the individual against the processing of personal data*”, the MPs from all the parties¹⁹⁸ had fervently recommended and supported that the members of the data protection authority should be elected by Parliament in Plenum without expressing any constitutional hesitations. The Scientific Report of Parliament and the MPs who considered the clause unconstitutional applied the formalist rule of the separation of powers in their argumentation, whereas the Deputy Minister of the Interior, Public Administration, and Decentralisation used a purely functionalist approach. Despite the fact that the government finally retrieved from its position, the final formulation of the clause recommended by the adherents of the observance of constitutionality seemed to be equally puzzling and problematic on constitutional terms.

The architect of the final formulation of the clause, the MP of Pasok, Anastasios Peponis, stated that the source of inspiration was article 49A of the Standing Orders. The article provided for the establishment of the Committee on Public Enterprises, Banks and Utilities which formulated an opinion on the appointment of those proposed for the post of head of board, secretariat governor or chief executive officer (CEO) or General Director, in case the post of a CEO was not foreseen, of certain public legal persons which were under the Committee’s jurisdiction¹⁹⁹. Nevertheless,

¹⁹⁷ See Appendix 2, 6 for abstracts from the discussions.

¹⁹⁸ The MPs of the Democratic Social Movement (DIKKI) retired from the discussions on the draft law “*Protection of the individual against the processing of personal data*” which were held on March 12, 13, 18 and 19, 1997.

¹⁹⁹ According to article 49A, 2, 3, 4 and 5 of the Standing Orders as in force by the time the discussions took place (Government Gazette, vol. A, no 200/15.09.1989) the Committee consisted of fifteen members comprising the Speaker and Deputy Speakers of Parliament. The Committee is established in proportion to the strength of the parliamentary groups and independents, whereas the provenance of the members of the Chair is taken into consideration. The competent governmental organ, or Minister or the one who supervises the Public Enterprise, or Bank or Utility announces to the President of the Committee (the Speaker, or if absent, a Deputy Speaker in order of election) his intention to appoint a certain person as head of a public legal person, and simultaneously submits a Curriculum Vitae containing her formal and substantial qualifications. Within three days after the submission of the CV, the Committee holds a public hearing for the candidate, and within four days after the public hearing the Committee formulates its opinion through a written report addressed to the Minister who proposed the candidate. The report may contain the opinion of the minority, if there is one. The Minister may participate without vote to the session of the Committee. In case the said deadline of the seven days expires, the Minister proceeds to the submission of the proposal to the concerned organ or to the appointment of the candidate. A full list of the Public Enterprises, Banks and Utilities was given in paragraph 5. Since 1989, the list has been amended three times. The last amendment took place in 2008 since many public banks, utilities and organisations were privatised. From 1989 until 1997, the list contained the following public legal entities: Bank of Greece, National Bank of Greece, Commercial Bank of Greece, Greek Bank of Industrial Development, Agricultural Bank of Greece, Real Estate Bank of Greece, Public Power Enterprise, Hellenic Telecommunications Organisation, Olympic Airways, Hellenic Railways Organisation, Urban Transport Organisation, Public Petroleum Enterprise SA, Aspropyrgos Hellenic Refineries, Hellenic Fuel-Mineral Oil SA, Social Insurance Institution, Agricultural Insurance Organisation, Manpower Employment Organisation, Greek Aerospace Industry, Greek Weapons Industry, Organisation for the Reconstruction of Enterprises, Workers’ Housing Organisation, Greek Post SA. The following entities were added to the list by the amended Standing

how constitutional was the final clause on the selection mechanism of the Ombudsman? The Committee on Institutions and Transparency was established in 1996 by the Standing Orders, and had no authorisation to control cabinet appointments to the independent authorities. On the other hand, even if the issue were retrospectively settled by amendment of the Standing Orders, the allocation of a competence which was not related to the function of parliament would violate the principle of the separation of powers and the appointments clause of the Constitution. In other words, the MP proposed the adoption of a clause which was slightly differentiated from the one he considered as unconstitutional.

But what was the logic of establishing a consultative stage, that is, the formulation of an opinion by a parliamentary committee before the final appointment of the nominees, and how constitutional was it? Scholars consider that the creation of the Committee on Public Enterprises, Banks and Utilities by the Tzannetakis's government in 1989 was a measure "*designed to weaken the close party-state relationship*"²⁰⁰ (Pridham and Verney, 1991). Moreover, there has been an expansion of legislative committee systems that sought to "redress the imbalance of power between the executive and legislature" in many jurisdictions by the end of the eighties (Pond, 2008). Indeed, during the discussions in Parliament "*on the amendment and completion of the Standing Orders of Parliament*"²⁰¹, the Rapporteur, Dimitrios Fragos, linked the establishment of the Committee on Public Enterprises, Banks and Utilities to the enhancement of parliamentary control over the executive, in the sense that the committee exercised a preventive-like parliamentary scrutiny on cabinet appointments. Nevertheless, he stressed that during the elaboration of the proposal in the competent Standing Committee on the Standing Orders the main concern was not to exceed the constitutional constraints in the design of that oversight mechanism. He explained that for that reason they rejected the idea of a legislative veto over ministerial nominations since in such a case, namely, the formulation of a negative opinion, the supervising Minister could not appoint the nominee. Under such circumstances the parliamentary committee would obtain direct and decisive competence over issues assigned to the executive branch of government. Thus, he clarified, the principle of the separation of powers established by article 26 of the Constitution would be violated, and that would lead to the distortion of the political system. Moreover, they did not intend to render the Minister unaccountable. Nevertheless, he stressed that it was not a simple formal procedure. He emphasized that the hearings and the Committee's report, which might contain the opposing view of the minority, were publicized. Thus, in his opinion, the Minister's responsibility

Orders in 1996 (Government Gazette, vol. A, no 151/08.07.1996): Ionian and Popular Bank, General Bank, Greek Radio and Television, Electric Buses of Athens-Piraeus, Metro SA, Public Gas Corporation, National Welfare Agency, Hellenic Organisation of Small and Medium Sized Enterprises and Handcraft, National Organisation of Medicines, Public Real Estate Corporation, Organisation of Football Prognostics, National Telecommunications Commission, Securities and Exchange Commission. The following entities were added to the list by the amended Standing Orders in 1997 (Government Gazette, vol. A, no 258/17.12.1997): the Athens Stock Exchange SA, and the Agency for Agricultural Professional Education, Training, and Employment "Demeter".

²⁰⁰ More specifically they state: "Meanwhile, the introduction of an all-party committee to screen candidates to head state enterprises was designed not only to prevent a repetition of the Koskotas affair, but also to strike a fundamental blow at the clientelist system. The assumption was that parliamentary scrutiny would eliminate the habit of appointing party "yes-men" and encourage the promotion of technocrats, who would be more likely to run the state sector along entrepreneurial lines and reject the mass hiring of unqualified party supporters".

²⁰¹ Minutes of Parliament in Plenum, Session 36, September 13, 1989.

over the selection of a nominee was maximized since he would possibly face criticisms from the public opinion in case the proposed individual was considered as a weak candidacy. He explained that the basic criteria for the inclusion of legal public entities under the jurisdiction of the Committee were their financial relevance and impact over society. Maria Damanaki from the Coalition of the Left and Progress, despite the fact that she was aware of the constitutional constraints, supported the idea of the legislative veto since the simple formulation of an opinion gave government the discretion either to approve or reject. Finally, the Speaker of Parliament, Athanassios Tsaldaris²⁰², in his speech, seemed anxious to reassure the MPs that the amendments were not unconstitutional since they did not assign executive power to parliament, thus transforming the polity in a directorial system.

The party of the Coalition of the Left and Progress proposed the measure of the legislative control of cabinet appointments to the public service. The minutes of Parliament remain silent on the source of inspiration. Nevertheless, analogous oversight mechanisms were introduced to three Canadian legislatures²⁰³. The Standing Committee on Government agencies of the provincial legislature of Ontario was established in 1990, and represented the most characteristic case. That institutional innovation was a paradigm of policy transfer since the design of the review process was partly inspired by the US Senate confirmation process for presidential nominees²⁰⁴. Thus, the Procedural Affairs Committee of the legislature of Ontario visited three state legislatures as well as Washington DC to get acquainted with the US senatorial practice. Nevertheless, they decided to eliminate the legislative veto from the procedure since they concluded that it was incompatible with cabinet government and the philosophy of a Westminster-style legislature in general (Pond, 2008). Likewise, the Greek legislator avoided the faithful implementation of the model of the US Senate confirmation process. Thus, the legislative veto was excluded from the oversight mechanism due to constitutional constraints.

The major issue raised is whether the adoption of that composite selection mechanism without legislative veto either in the case of public enterprises, banks and utilities or in the case of independent authorities was constitutional. First, the insertion of a compulsory stage embracing parliament in the appointments procedure, irrespective of its consultative nature, was not consistent with the separation of functions and the appointments clause of the constitution. The idea that links the formulation of an opinion over the nominees to the concept of parliamentary review seems problematic in itself. More specifically, the main argument that the Rapporteur of the coalition

²⁰² More specifically he stated: *“The second thing we tried to do was to avoid unconstitutional provisions. We had discussions about the issue during the sessions of the Committee. Many times Mr Stephanides raised issues of constitutionality. I can reassure you that we examined everything very attentively. . . These amendments simply aim at the enhancement of parliamentary scrutiny over government for the sake of the public interest and transparency that all the political parties promised and demand”*. Source, Minutes of Parliament in Plenum, Session 36, September 13, 1989.

²⁰³ These three Canadian legislatures were: the House of Commons, and the provincial legislatures of Nova Scotia and Ontario.

²⁰⁴ Under the appointments clause of the U.S. Constitution, officers for certain high ranking federal positions are appointed by the President of the United States with the confirmation (advice and consent) of the United States Senate. The competent Senate Committee usually holds public hearings before a full vote by the Senate, that is, simple majority of 51 votes. If the nominee is rejected by the Senate, the President proceeds to the announcement of a new candidacy or nominates the same person for additional review. Likewise, state legislation provides that officers for certain state positions are appointed by the Governor with the confirmation (advice and consent) of the Senate.

government Dimitrios Fragos and the other MPs used to circumvent accusations for constitutional violation was that the procedure was part of the parliamentary scrutiny over the executive. He characteristically stated “a preventive-like Parliamentary Scrutiny”.

Apart from the legislative work, Parliament historically performs a scrutinising role over the management of the administration by the executive in order to hold it accountable. Nevertheless, it is impossible to hold accountable the nominees summoned for interviews by a committee since they testify in their capacity as private citizens and not as public officials. Consequently, such a testimony without any insight on the work or policies applied to a certain agency is useless in the sense of challenging the competent ministers in the National Assembly. In other words, the US model was introduced in a distortive manner: confirmation by the Senate is an indispensable part of the appointments procedure, whereas the formulation of an opinion on a nominee by a committee became part of a preventive-like parliamentary review of the executive which, in turn, is nonexistent in parliamentary practice. Thus, the formulation of an opinion, even without a legislative veto, is part of the appointments procedure. Second, the elimination of the legislative veto created a pseudo-checks and balances system with the potential to end up on a pure checks and balances situation in a hypothetical case.

We may discern two versions of this hypothetical case taking always into consideration the interpretation of the concept “formulation of an opinion without legislative veto” given by the MPs during discussions in Parliament. According to the first version, the most improbable to happen, some of the majority government MPs join with the opposition colleagues to vote against a nominee²⁰⁵. The Minister still has the discretion to proceed to the appointment. However, according to the minutes of Parliament, the MPs claimed that²⁰⁶, a negative publicity and exposure of a weak candidacy would impact on the Minister’s decision, and thus he would inevitably be compelled to withdraw it. According to the second version, the most probable to happen, if the minority disagreed with the candidacy, the government would not proceed to the appointment under the glare of public scrutiny. We argue that if publicity may serve as a deterrent against the appointment of a nominee by the

²⁰⁵ As earlier stated Greece pertains to a Westminster style of democracy, and thus the legislature is dominated by disciplined party caucuses. Consequently, the MPs do not exercise their independent judgement, and their votes are whipped.

²⁰⁶ The Parliamentary Representative of the Coalition of the Left and Progress, Leonidas Kyrkos, stated: “However, there is no doubt, that a public hearing is an important safeguard. Let’s imagine, for example, that the candidate for the Banc of Greece is examined. It is indisputable, that during this public discussion, where there will be present not only MPs, but also representatives from trade unions of the employees of the bank, social groups etc, the formal and substantial qualifications will be examined. And it is undeniable that, in case of the formulation of a negative opinion, even if this opinion is not the one of the majority, no government would take the public cost to proceed to the appointment of a person which is under doubt”. Minutes of Parliament in Plenum, Session 36, September 13, 1989, p. 1058. The MP of the Coalition of the Left and Progress, Manolis Drettakis, also stated: “However, is the opinion of the Committee as unimportant as some like to present it? It is not. If we suppose that a candidacy is rejected by the Committee, which Minister will dare to appoint the rejected candidate? Let’s suppose that only the government majority supports a candidate, and the objection of the minority, which might be very powerful, is publicly formulated. Which Minister will put aside the comments of the Opposition? For these reasons I believe that the opinion without legislative veto should not be underestimated”. Minutes of Parliament in Plenum, Session 36, September 13, 1989, p. 1061.

Minister, then it becomes a substitute for the legislative veto. Thus, the Minister is not accountable for the appointment since the parliamentary committee informally exercises legislative veto power. In such a case, we have a pure checks and balances system that is not provided for in the Constitution.

4. Towards the convergence of the appointments clause of the members of the constitutional independent authorities: the Constitution under revision.

a1. The first round: Discussions of the Committee on the revision of the Constitution regarding the appointments clause (article 101A), comments and interpretation

Four sessions²⁰⁷ of the Committee on the revision of the Constitution were dedicated to the discussion of article 101A regarding the selection mechanism to be established for the appointment of the members of the five constitutional independent authorities²⁰⁸. The contradiction among parties was rather intense since the formulation of the provision changed repeatedly during discussions. The final formulation submitted for voting provided that the members of the authorities would be selected by the Conference of Presidents with the intent to attain unanimity or by a qualified majority of the four-fifths. In case the attainment of the said majority failed, those individuals who gathered the majority of the three-fifths would be appointed. However, the procedure for the selection of those members who did not gather the qualified majority of the four-fifths would be repeated after six months.

The discussions on the appointments clause, that is, the new article 101A, proved that there was tension among the MPs which finally led to an illegitimate voting²⁰⁹. The major issues of the dispute revolved around the competent parliamentary organ for the selection combined with the appropriate qualified majority voting, and the nomination process. The MPs of the right wing party (New Democracy) supported the option of the competent Standing Committee as the appropriate organ for the selection of the members of the authorities. Their approach was rather formalist since they invoked constitutional considerations in order to justify their option. In their view, the competent Standing Committees were miniatures of Parliament in Plenum due to their representative character and stable composition enshrined in the Constitution (art. 68, par. 3). On the contrary, the Conference of Presidents had no constitutional status and

²⁰⁷ See Appendix 2, 7i, ii, iii and iv for abstracts from the discussions.

²⁰⁸ Minutes of Sessions and Report of the Committee on Revision of the Constitution, Seventh Revisional Parliament, Athens 2000.

²⁰⁹ Before the end of the second evening session of the Committee on the revision of the Constitution on October 18, 2000, the President of the Committee, Phoibos Ioannides, stated: “*It is true that the Committee, as you all may know, has achieved a remarkable work. However, we had some problems with the voting procedures tonight, and I am afraid that the impressions which will be publicised by the Press tomorrow will not correspond to reality. This is why I would like to say only one thing, and I am addressing myself especially to the journalists. Politics has always been a battle; it has never been a ritual. And when there are disputes, there may be tensions. Promoting only snapshots of tension does not wrong specific MPs, but it wrongs the whole functioning of the Committee and the procedures that have been applied until now. I shall not dictate to you what you will do. Each one of you will do his job, as he wishes. I felt the need, as President of the Committee, to say these things to the journalists and colleagues, thus expressing my regret for what happened earlier, . . .*”. Minutes of Sessions and Report of the Committee on Revision of the Constitution, Seventh Revisional Parliament, Athens 2000, p. 585.

was competent for issues pertaining to the internal function of Parliament²¹⁰. The fluctuating composition of the organ could be easily amended by the Standing Orders. Consequently, it was not a representative organ since the governing party had the majority of the three-fifths which in turn could be further distorted in case of an amendment of its composition. Finally, the role of the backbencher was degraded since the Conference of Presidents represented the omnipotence of the political parties.

The General Rapporteur of the majority, Evangelos Venizelos (Pasok), and the MP Fotis Kouvelis, (Coalition) applied a functionalist approach, thus excluding any constitutional considerations. With regard to the issue of the constitutionality of the organ of the Conference of Presidents, Evangelos Venizelos, in our opinion, failed to be persuasive, and his argumentation had no legal support. He substituted trust between the MPs for the lawful procedures since he simply reassured the body that the government had no intention to change the composition of the organ. Moreover, he insisted that the mere reference in the Constitution that the members of the independent authorities were selected by the Conference of Presidents was adequate for the constitutionality of the organ. On the other hand, he used qualitative comparisons, thus emphasizing the aristocratic character of the Conference of Presidents which could lead more easily to consensual solutions.

Only one MP, Ioannis Kefalogiannis from the right wing party supported the option of Parliament in Plenum. In the case of the appointments clause of the Greek Ombudsman, Parliament was excluded from the selection mechanism due to the unconstitutionality of the procedure. Nevertheless, it was substituted for an equally unconstitutional arrangement. The discussions of the Committee on the revision of the Constitution rather unravel the overall unwillingness of the legislative body to delegate such power to Parliament in Plenum. However, the real reasons still remain unclear. Apostolos Andreoulakos mentioned that Parliament “was overburdened”, whereas Prokopis Pavlopoulos stated that they rejected the body “for obvious reasons”.

With regard to the appropriate qualified majority vote, it was obvious that it was linked to the appropriate parliamentary organ. The pressure of the leftist parties for an active role in the procedure finally led to the option of the Conference of Presidents by a qualified majority of four-fifths. Thus, the procedure guaranteed that one small party could regulate the final result. However, the nomination process combined with the organ of the Conference of Presidents lacked transparency. The MP from the Communist Party of Greece, Antonios Skyllakos insisted on the establishment of interparty authorities where the political parties should nominate their representatives. The MPs from New Democracy, Ioannis Varvitsiotis and Prokopis Pavlopoulos disagreed with the institutional exclusion of the political parties within the nomination procedure. On the contrary, the General Rapporteur of the Majority, Evangelos Venizelos, (Pasok), Anna Psarouda-Benaki (New Democracy), and Konstantinos Mitsotakis (New Mitsotakis) fervently suggested that the wording of the appointments

²¹⁰ Despite the fact that the original competence of the organ was strictly related to issues of the internal function of Parliament according to international practice, the MPs seem to ignore that the amended Standing Orders in 1997 provided that the Conference of Presidents “*decides or formulates an opinion on issues expressly provided for in the Standing Orders or the law*” (Government Gazette, vol. A’, no 258, 17.12.1997).

clause should remain silent on the nomination procedure. Moreover, they rejected the idea of public hearings to evaluate the candidates. However, they all admitted that there would be informal consultations among the political parties before the submission of the final proposal to the Conference of Presidents. It is obvious that they sought to give the impression of a neutral, nonpartisan procedure since the official interference of the political parties and party affiliation of the nominees sent the wrong message to the public opinion. Interestingly enough, Antonios Skyllakos (Communist Party of Greece), reacted with cynicism to these statements, and demystified the whole nonpartisan saga. He openly supported that there were no independent candidacies since the nominees were either members of the political parties or personalities of high standing closely related to the predominant ideological preferences and policies of the status quo and vulnerable to political pressure.

a2. The third amendment on the selection mechanism of the members of the board of the National Council for Radio and Television, Law 2863/2000: the pilot selection mechanism for the members of the constitutional independent authorities four months before the revision of the Constitution of 2001

i. The Appointments Clause

Article 2, par. 1 and 2 of the Law 2863/2000 provided for the selection mechanism of the Council, as amended for the third time. The appointments clause constituted a composite act, comprising two distinct processes: i) selection by the Conference of Presidents by a qualified majority of the four-fifths upon proposal of the Speaker of Parliament (directorial system), ii) official appointment by the competent Minister.

ii. Discussions in Parliament, comments and interpretation

The discussions and debates of the draft law²¹¹ “*National Council for Radio and Television and other authorities and organs of the sector of the provision of broadcasting services*” in principal and in particulars in the Greek Parliament²¹², provoked intense controversy among the MPs regarding the selection mechanism of the heads and members of the board of the National Council for Radio and Television. In our opinion, the third amendment of the appointments clause of the NCRTV violated the principle of the separation of powers and the appointments clause of the Constitution. The MPs of the opposition unanimously asked for the withdrawal of the clause until the overall arrangement of the selection mechanism of the members of the independent authorities by the Constitution under revision that would be concluded by

²¹¹ See Appendix 2, 8 for abstracts from the discussions.

²¹² Minutes of Parliament, 10th Period (of Presidential Parliamentary Democracy), First Assembly, Sessions 44 and 46 discussion and debate in principal, November 1 and 3, 1997, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN-1112000.pdf> and <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN-31100.pdf>, and Sessions 48 and 49, discussion and debate in particulars, November 7 and 8, 2000 available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN-71100.pdf>, <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN-81100.pdf>, date of access: 20.08.2010

the end of March 2001. However, the Scientific Report of Parliament²¹³ on the draft law, erroneously in our view, strictly limited the irregularity of the clause to the issue of the requirement of the qualified majority voting²¹⁴. Yet the competence for the selection of high-ranking public functionaries by parliamentary organs was not provided for in the Constitution. The Scientific Report acknowledged the delegation of that power to the Conference of Presidents by the amended Standing Orders of 1997. We should once more emphasize that the amendment was unconstitutional since the Standing Orders strictly provide for issues related to the internal function of Parliament.

The MPs of the right wing party (New Democracy) accused government of irregular practices, namely, the introduction of such an important draft law to a Recess Section of Parliament²¹⁵, on the one hand, and the irregular voting procedure that led to the substitution of the competent Standing Committee for the Conference of Presidents as the appropriate organ for the selection of the members of the authorities, on the other. More specifically, they informed Parliament of the voting procedure that took place during the discussions of the Committee on the revision of the Constitution regarding the appropriate parliamentary organ for the selection. Prokopis Pavlopoulos (New Democracy) openly characterized the voting as irregular, and put the blame on the President of the Committee who failed to protect the procedure. The nomination process seemed to puzzle many MPs who considered that it lacked transparency.

In general, the government's stance was influenced by functionalism, and exhibited a majority syndrome, which disregarded constraints and process, and an inclination for supporting non transparent procedures. According to the minutes of the Recess Section of the Standing Committee on Public Administration, Public Order and Justice²¹⁶, the Rapporteur of the Majority, Stephanos Manikas (Pasok) considered the idea of the selection of the members of NCRTV by a parliamentary organ as a means for the parliamentary review of the authorities. Nevertheless, as we have already stated, any selection procedure by a parliamentary organ corresponds to a preventive parliamentary review, thus constituting an unorthodox practice. The Parliamentary

²¹³ Scientific Report of Parliament on the draft law “*National Council for Radio and Television and other authorities and organs of the sector of the provision of broadcasting services*”, Athens, 11.10.2000.

²¹⁴ According to article 13 par. 5 of the Standing Orders the Conference of Presidents takes its decisions by the absolute majority of the present members, unless otherwise specified by other provisions of the Standing Orders. Consequently, the requirement of the qualified majority of the four-fifths was not provided for in the Standing Orders, and thus the law had no authority to arrange the issue.

²¹⁵ According to Spyropoulos and Fortsakis (2009) “*If Parliament is in recess, legislative business is conducted by a special Section comprising one-third of the total number of deputies (Article 71 and article 70, paragraph 6 of the Constitution). Parliamentary practice has been to divide the summer recess into three parts, with one Recess Section for each, so that all members of Parliament participate in the legislative work during recess. The membership of these sections reflects the proportion of parties and independent Members in the full Parliament, as decided by the Speaker. In principle the Recess Section meets during the summer period – but can also convene at any other time when Parliament is not sitting. This arrangement ensures continuity in the work of Parliament, allowing it to pursue its functions of legislation and control without interruption*”.

²¹⁶ Minutes of the Recess Section of the Standing Committee on Public Administration, Public Order and Justice, Sessions of 26 and 28 (morning and evening) September, 2000.

Representative of Pasok, Alexandros Akrivakis, openly rejected multimember parliamentary organs and the subsequent publicity of their sessions, that is, the Competent Standing Committees. Moreover, he was opposed to the suspension of the discussion of the clause based on the right of the governmental majority, thus disregarding the constitutional constraints. According to the minutes of the Recess Section of the Standing Committee on Public Administration, Public Order and Justice, the Minister of Press and Mass Media rejected the proposal that the members of the authorities should be selected by Parliament in Plenum by a qualified majority since a qualified majority was provided for the election of the President of the Republic. The justificatory basis of the argument is not convincing, and simply sought to exclude Parliament in Plenum from the procedure. Moreover, faithful to theoretical views, he linked the independence of the NCRTV to the selection of their members by a parliamentary organ, a procedure which in turn enhanced its democratic legitimacy. Finally, he considered the appointments clause an institutional avant-garde since the members of relevant authorities in other jurisdictions were selected by the executive.

5. Testing the constitutionality and transparency of the appointments clause of the revised constitution of 2001 (article 101A, par. 2).

i. The second round of discussions²¹⁷. Convergence of the selection mechanisms of the members of the five constitutional independent authorities through article 101A, par. 2 of the revised Constitution of 2001: the triumph of the Conference of Presidents.

The discussions of article 101A par. 2 that took place in the VII Revisionary Parliament²¹⁸ regarding the selection mechanism to be established for the heads and members of the five constitutional independent authorities proved to be intense and controversial. Despite the predominance of a consensual spirit among the big two parties, a feature that sealed the works of the VII Revisionary Parliament, (Kaminis, 2006), the final formulation of the clause²¹⁹ was approved by the smallest majority (of votes) in relation to all the other revised provisions, that is, 152 votes²²⁰. The

²¹⁷ See Appendix 2, 9 for abstracts from the discussions.

²¹⁸ Minutes of the VII Revisionary Parliament, 10th Period (of Presidential Parliamentary Democracy), First Assembly, Session 144 (morning Session), March 21, 2001, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN032101p.pdf>, and Minutes of the VII Revisionary Parliament, 10th Period (of Presidential Parliamentary Democracy), First Assembly, Session 145 (evening Session), March 21, 2001, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN032101a.pdf>, date of access: 30.08.2010

²¹⁹ Article 101A, par. 2 reads as follows: “. . . *Their selection is made by decision of the Conference of Presidents seeking unanimity or in any case by the increased majority of four fifths of its members. Matters relating to the selection procedure are specified by the Standing Orders of the Parliament*”. The initial draft clause approved by the Committee on the revision of the Constitution and introduced for discussion and approval at the VII Revisionary Parliament read as follows: “*The members of the authorities are selected upon decision of the Conference of Presidents with the intent to attain unanimity, or in any case, by a qualified majority of four-fifths of its members. If the said qualified majority is not attained, it is considered that are selected and appointed those who gathered a qualified majority of three-fifths. Nevertheless, the selection procedure for those members who did not gather the qualified majority of the four-fifths is repeated after six months time. All relevant issues regarding the selection procedure are specified by the Standing Orders of Parliament*”. Only the first part of the clause was voted since the alternative solution provided for by the second part was finally eliminated.

²²⁰ The Hellenic Parliament is a unicameral legislature of 300 members. The present members at the 155th Session of the VII Revisionary Parliament that was held on April 6, 2001, were 280, whereas 20

appointments clause for the selection of the members of the National Council for Radio and Television served as the prototype clause. The MPs repeated the views and arguments they had supported during the sessions of the Committee on the revision of the Constitution and discussions on the draft law “*National Council for Radio and Television and other authorities and organs of the sector of the provision of broadcasting services*”. The MPs of New Democracy and the Communist Party of Greece strongly rejected the idea of the Conference of Presidents. Interestingly enough, an MP from the party of New Democracy, Stephanos Manos²²¹, was the only who strongly challenged the proposed arrangement claiming that democratic legitimacy means that the government appoints and takes the responsibility for the selection. The Rapporteur of the Majority, Evangelos Venizelos, the man behind the idea of delegating such competences to the Conference of Presidents, strongly supported the neutrality of the organ, albeit based on a weak argumentation in our opinion.

ii. The Appointments Clause of article 101A par. 2 of the Constitution: Is it constitutional and transparent?

During the discussions held in Parliament under the Tzanettakis’s coalition government in 1989 on the establishment of the Committee on Public Enterprises, Banks and Utilities²²², whose mission was to exercise parliamentary scrutiny on cabinet appointments, Konstantinos Mitsotakis (New Democracy) stated in relation to the permissibility of a legislative veto over the appointments procedure:

“The Constitution cannot permit the directorial system²²³. The transformation of fundamental provisions of the Constitution is needed, something that is not permissible even under the ordinary procedure of the constitutional revision²²⁴. And we should not

members were absent. According to the voting results (p. 6759 of the Minutes of Parliament), 152 MPs voted for article 101A, par. 2, 116 MPs voted against, and 12 voted absent. Minutes of the VII Revisionary Parliament, 10th Period (of Presidential Parliamentary Democracy), First Assembly, Session 155, April 6, 2001, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN040601.pdf>, date of access: 30.08.2010.

²²¹ He is a Greek politician and industrialist. He studied mechanical engineering (ETH Zurich), and received his MBA from Harvard University. He was elected MP in 1977, 1981, 1993, 1996, 2000, and 2004. He served as Deputy Minister and Minister under the governments of New Democracy. In April 1999 he founded the Liberal Party and cooperated with the party of New Democracy in the elections of 2000. In the national elections of 2004 he was included as an independent candidate in the third position of the voting paper of the State with PASOK. On March 17, 2009 he was co-founder of a new political party, the “[Action](http://el.wikipedia.org/wiki/%CE%A3%CF%84%CE%AD%CF%86%CE%B1%CE%BD%CE%BF%CF%82_%CE%9C%CE%AC%CE%BD%CE%BF%CF%82)”. Source Wikipedia, available at: http://el.wikipedia.org/wiki/%CE%A3%CF%84%CE%AD%CF%86%CE%B1%CE%BD%CE%BF%CF%82_%CE%9C%CE%AC%CE%BD%CE%BF%CF%82, date of access: 30.08.2010.

²²² Minutes of Parliament on the “Amendment and completion of the Standing Orders of Parliament”, Session 36, September 13, 1989, p. 1051.

²²³ The directorial system draws its origins from the 1795 Constitution of the French Revolution. This model of democracy provides that “*Parliament absorbs the executive power or, in other words, the executive is completely subordinated to the legislature*” (Pantelis, 2005).

²²⁴ Article 110, par.1 entitled “Revision of the Constitution” reads as follows: “The provisions of the Constitution shall be subject to revision with the exception of those which determine the form of government as a Parliamentary Republic and those of articles 2 paragraph 1, 4 paragraphs 1, 4 and 7, 5 paragraphs 1 and 3, 13 paragraph 1, and 26”. Article 26 refers to the strict tripartite system of the separation of powers.

make the mistake to create such mechanisms in Parliament so as to finally hinder Government from governing. The Country should be governed, opposition should be exercised, and the established political system should be respected. And I believe that we have reached the ultimate boundaries permitted by the Constitution. It is certain that Parliament cannot take decisions on the individuals who will be appointed to the supreme public offices. This is certain. And even if that were not the case, if you ask me on purely theoretical grounds, hypothetically, I would say to you that it would be a mistake to let Parliament decide. Government must take the final responsibility since government selects. . . Three hundred people support a government, namely, the majority of those three hundred. And they scrutinise it, and government takes decisions. I would disagree, even if the Constitution did not completely exclude it”.

Nevertheless, after twelve years, the Greek scholars, mainly constitutionalists, gave legislators the theoretical tools to overcome the constitutional constraints. The member of the Committee on the revision of the Constitution of 2001, Deputy Eleftherios Tziolas, in his speech on the appointments clause²²⁵, echoed the new incarnations of functionalism:

As a necessary precondition to be useful to democracy, the said authorities shall be submitted to a regime of broad democratic legitimacy and extensive political scrutiny. This regime may only be safeguarded by their determinative constitution by Parliament . . . According to all those previously exposed²²⁶, Parliament has “the upper hand” in relation to Government, not only with regard to the development, but also with regard to the operational specialisation of the institution. According to one view, the proposed relationship of Parliament with the independent authorities reminds in miniature of the “directorial system” where the executive power is under the complete dependence on Parliament. Within this context, it is not the executive power – which falls under the ambit of the constitutionally consolidated parliamentary system – but idiosyncratic administrative and oversight institutions operating beyond its [the executive] known and established forms. In other words, these are institutions which, through broad functional independence, undertake certain key areas of state policy that, either directly through the Constitution, or based on constitutional authorisation by Parliament, are not entrusted to government and the traditional public administration.

²²⁵ Minutes of Sessions and Report of the Committee on Revision of the Constitution, Seventh Revisional Parliament, Athens 2000. Morning Session of October 18, 2000, p. 558.

²²⁶ He made reference to the enhancement of the relationship between the independent authorities and Parliament through i) the selection mechanism of the members of the authorities, ii) parliamentary review of the authorities (e.g. the submission of annual reports), and iii) the revocation of the members’ mandate on extraordinary cases. See also pages 221-222 in G. Sotiropoulos’s book “Constitution and Democracy in the era of “globalisation”, Editions Ant. N. Sakkoula, Athens-Komitini, 2000.

This excerpt from Tziolas's speech is an abstract copied²²⁷ by Giorgos Sotirelis's book entitled "Constitution and Democracy in the era of "globalisation" published the same year²²⁸. The views reflected in the text reiterated the well-known functional saga of the innovative administrative structures, namely, the independent authorities which are located beyond the tripartite system of the separation of powers. Thus, this unique institutional character of the authorities legitimised the revision of what was otherwise constitutionally impermissible, that is, article 26. In other words, the allocation of an autonomous selection power to Parliament through the phenomenon of the intersection of functions usurped the appointment prerogative of the executive. According to constitutional law, the concept of the intersection of functions creates exceptions in the principle of specialization of the three groups of state organs, that is, the organs of the legislative, the executive and the judicial power. The principle of specialisation within the separation of powers system enshrined in the Constitution provides that "each group of organs must only exercise the competences which are content-related to its function" (Dimoulis, 2002). Thus, the introduction of exceptions to the principle of specialisation corresponds to the procedure of "assigning the organs of one function competences which substantially pertain to the organs of another function" (Dimoulis, 2002). This process constitutes the intersection of functions. Some constitutionalists support that "in modern legal orders, intersection has become the rule and not the exception, whereas it brings about the mutual control and limitation of power in a more effective way than the specialization of the organs" (Vogel, Leisner, Seiler cited in Dimoulis, 2002). Within this context, the constitutional legislator justifies these exceptions on the basis of political and ideological reasons, or simply requirements of technical effectiveness that enhance the exercise of certain competences (Dimoulis, 2002).

In the case of the appointing power of Parliament the justificatory basis originated from the idea that the independent authorities located outside the executive branch of government were created due to government distrust which, in turn, inevitably permitted the transition to a directorial system. With regard to the democratic principle of the political accountability of the executive, it was substituted for the principle of the popular sovereignty through the selection of the members of the authorities by an organ of the legislature as part of parliamentary review on the one hand, and consensual processes in decision-making, on the other. The Rapporteur of

²²⁷ The MP does not mention his source in the text of the Minutes of Parliament. See the copied abstract in pages 221-223 from G. Sotirelis's book "Constitution and Democracy in the era of "globalisation", Editions Ant. N. Sakkoula, Athens-Komitini, 2000.

²²⁸ Giorgos Sotirelis obtained his Ph.D. degree with "excellent" in 1988. He was elected lecturer at the Department of Political Science and Public Administration (School of Law, Economics and Political Science-University of Athens) in 1988. He was elected as assistant Professor (1993-2000), associate professor (2001-2006), and professor in November 2006 at the same department. He is a lawyer. He has served as head of the Department of Parliamentary Studies and Research of the Greek Parliament since 1988. He was appointed Secretary General to the Ministry of Justice during 1994-1995 under Minister G. Kouvelakis. He became Advisor to the Prime Minister's Office (Konstantinos Simitis) during 1996-1997. He was candidate of the Socialist party (Pasok) for the European Parliament in the European elections of 2009. Information available at the official website of the Socialist party (Pasok): <http://www.pasok.gr/portal/resource/contentObject/id/433a6aef-d31f-4908-97aa-8dd55b6e4e12>, date of access: 04.11.2010.

the Majority, Evangelos Venizelos²²⁹, considered that “the scrutiny exercised by the independent authorities becomes complement and pillar of a strict and active parliamentary review”, thus giving the sense that the authorities are part of the legislative branch of government.

Nevertheless, embranching the concepts of parliamentary review and consensus in the selection of the members of the independent authorities by Parliament could lead a majoritarian democracy to a deadlock, thus making the adoption of the directorial system constitutionally impermissible. With regard to the parliamentary review of the independent authorities, it is obvious that the concept has been relativized²³⁰. Moreover, there is a tension between the concept of the parliamentary review of the authorities, as prescribed in article 101A par. 3 of the Constitution²³¹, and the concepts of personal and functional independence²³², as prescribed in article 2 par. 1 and article 3 par. 3 of the executive law 3051/2002 of the Constitution (Chrysogonos, 2000). The articles 14 par. e, 43A, par. 2a and 6, and 138A of the Standing Orders of Parliament provide for the parliamentary review of the independent authorities. Within this context, the concept of the parliamentary review inevitably takes the form of giving an account to the competent parliamentary organs²³³. The hearings of the members of the authorities, the annual reports, the probable discussions in Parliament in Plenum (without voting) may simply result in the removal of the confidence of Parliament in a certain individual with no further legally binding consequences for him²³⁴. Under such circumstances, the first deadlock is created since Parliament comes into conflict with its own selection, and thus a conflict of interest situation arises. In other words, as Koutsoumbinas (2006) argues “Parliament itself acknowledges that its selection decisions, taken with unanimity or extraordinary qualified majority vote, were erroneous”. Consequently, “the parliamentary review of the independent authorities is legally and politically problematic” since there is neither control of the governmental activity, nor a legally binding result (Koutsoumbinas, 2006).

Consensus in the decision-making procedure creates the second deadlock. The constitutional demand for party bargaining and consensus transforms the

²²⁹ Minutes of Sessions and Report of the Committee on the Revision of the Constitution, Seventh Revisional Parliament, Athens 2000. The report of the Rapporteur of the Majority, Evangelos Venizelos, p. 651.

²³⁰ The concept of parliamentary review is traditionally linked to the possibility of the attribution of political responsibility which takes the form of a motion of censure against government or against one of its members (Chrysogonos, 2000).

²³¹ “Matters concerning the relation between the independent authorities and the Parliament, and the manner, in which parliamentary review is exercised, are specified by the Standing Orders of the Parliament”.

²³² We refer to the personal and functional independence enjoyed by judges pursuant to article 87, par. 1 of the Constitution. In other words, judges are not submitted to parliamentary review.

²³³ Different parliamentary organs may interfere with the parliamentary review of the independent authorities: the Conference of Presidents, the Committee on Institutions and Transparency, the competent Standing Committee or an ad hoc created Committee.

²³⁴ According to article 3 par. 6 of the law 3051/2002 the members of the constitutional independent authorities may only be dismissed after a final conviction. Moreover, they enjoy functional immunity. On the other hand, the competent Minister may not assume any legal or political responsibility for the acts of the members of the authorities. He simply issues the official appointment act of the members of the authorities within fifteen days after notification of their selection by the Conference of Presidents according to article 3, par. 2 of the executive law 3051/2002.

parliamentary review into a tautological system where controllers and controlled coincide²³⁵ (Koutsoubinas, 2006). Consequently, unanimity or broad consensus come into contradiction with the notion of control itself, thus levelling the concept of opposition in a majoritarian democracy. These deadlocks bar any respiratory exits incarnated in the concepts of control and opposition, disrupt the balances of the political system, and distort it through the aggrandizement of the legislative power. Thus, crucial areas of state policy rest in practice unchecked. Revising article 26 of the Constitution through the intersection of functions might dismantle the unity and balance of the political system itself in the sense that crucial institutions start operating under an exceptional regime, namely, the directorial system. However, functionalist arguments promoted by Greek scholars seem to have prevailed in the discussions, thus legitimising the constitutional revision of article 26.

Interestingly enough, in 1997, during discussions in Parliament on the institution of the Ombudsman, Anastasios Peponis had pinpointed the inescapable constraints of the Constitution²³⁶:

If there are political forces which wish,-or think, believe, and propose- that we should gradually be led to support the perception of the directorial system, this is an issue of major national and political relevance which is related to the form of the political system. [These political forces] may propose it, and fight for it, but the current political system does not adopt the perception that Parliament has governmental competences since the principle of the separation of the basic functions of the Polity characterises the Greek political system.

The allocation of the selection power to the organ of the Conference of Presidents is equally problematic in terms of constitutionality and transparency. With regard to the issue of constitutionality, the organ and its composition are not consolidated in the Constitution; they are only provided for in the Standing Orders of Parliament. The fluctuating composition of the organ might “enable a governmental majority deprived of constitutional sensitivity to amend the Standing Orders at will”²³⁷, and thus ensure

²³⁵ In order to prove his point, Koutsoubinas (2006) took the hypothetical case where two parliamentary groups are represented in Parliament, and the Conference of Presidents consists of a minimum number of 15 members (with the exclusion of former Speakers of Parliament and independents), that is, the members of the Chair, the Presidents of the six Standing Committees, the President of the permanent Committee on Institutions and Transparency, and the two Presidents of the parliamentary groups. The majority of the organ, namely, the governmental majority may select on its own, with the qualified majority of the four-fifths, the members of the independent authorities, and thus the parliamentary review makes sense. Furthermore, Koutsoubinas supports the view that the term “parliamentary review” in article 101A par. 3 of the Constitution is unfortunate. In his opinion, it should be substituted for the term “parliamentary supervision” in a future constitutional revision. Yet, he acknowledges that the term is novel, as is the institution of the independent authorities and their constitutional consolidation. Finally, he defines the term “supervision” as means for continuously informing Parliament on the work of the authorities and the problems they may possibly encounter.

²³⁶ Minutes of Parliament, 9th Period (of Presidential Parliamentary Democracy), First Assembly, Session 101, discussion and debate in principal, March 20, 1997, p. 4993, available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/20_03_97.pdf, date of access: 6.11.2010.

²³⁷ Interestingly enough, Kaminis (2006) supports the view that the qualified majority of the four-fifths enshrined in the Constitution on its own constitute a barrier against any attempt to amend the Standing Orders of Parliament. He claims that any change within the composition of the Conference of

the appropriate majority in the Conference of Presidents in order to proceed to the selection of the members of the authorities based on partisanship . . . Consequently, it should be preferable to allocate the authority of the selection to an organ with stable composition, such as Parliament in Plenum or at least a Standing Committee with a composition analogous to the strength of parties, and secret ballot, in order to mitigate whip vote”. (Chrysogonos, 2000). These criticisms and reservations were also expressed during discussions in Parliament mainly by the MPs of the right wing party (New Democracy) who were supported by the MPs of the Communist Party of Greece.

The issue of transparency in the selection procedure of the members of the independent authorities seems to prevail in the recommendations of the Council of Europe²³⁸. However, the organ of the Conference of Presidents does not fulfil that requirement since its original mission and composition, its internal organisation and function are incompatible with such selection procedures. On the other hand, the amended article 14 of the Standing Orders of 2001 pursuant to the constitutional demand of article 101A par. 2 for the arrangement of all issues related to the selection procedure failed to satisfy a minimum standard of transparency. It simply provides that the Conference of Presidents selects upon proposal of the Speaker of Parliament which in a sense disregards the constitutional dictum itself. The clause of the Standing Orders remains silent on the procedure for the submission of candidacies, or the possibility of public hearings for the nominees. Therefore, the Speaker of Parliament disposes of a broad discretion in relation to the attainment of unanimity or, at least, the qualified majority of the four-fifths. Kaminis (2006) argues *“It is obvious that, before the formulation of his [the Speaker’s] report towards the Conference of Presidents, he would have informally consulted with all the interested parties, mainly the government and the parliamentary groups represented in the Conference”*.

It is far from clear that the formulation of the clause of the Standing Orders reflects the politicians’ reluctance to typify and publicise the procedure. This unwillingness was clearly expressed during the discussions of the Committee on the Revision of the Constitution. Under such circumstances, the whole procedure takes place under secrecy. Therefore, the selection mechanism is incompatible with the democratic principle, since it lacks publicity (Kaminis, 2006). Since the first application of the appointments clause in 2003, the press releases of Parliament²³⁹ have revealed that all

Presidents shall have to ensure that no parliamentary group may autonomously gather the majority of the four-fifths of its members. Furthermore, the basic purpose of the constitutional legislator was to ensure the broadest possible convergence of the parliamentary forces in relation to the candidates to be selected for the posts of the heads and members of the independent authorities.

²³⁸ Recommendation Rec(2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector adopted on December 20, 2000 states that: “. . . Furthermore, rules should guarantee that the members of these authorities are appointed in a democratic and transparent manner”. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=393649&Lang=en>, date of access: 06.11.2010. Recommendation 1615(2003)1 of the Parliamentary Assembly on the Institution of the Ombudsman states at point 7 iii) “. . . certain characteristics are essential for any institution of ombudsman to operate effectively, namely: exclusive and transparent procedures for appointment and dismissal. . .” Available at: <http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1615.htm>, date of access: 06.11.2010.

²³⁹ See i) Press Release of Parliament on the new composition of the Hellenic Personal Data Authority, dated February 4, 2003. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=5ccc4fa9-31e2-4d61-af09-37270178f5bc>, date of access: 07.11.2010, ii) Press Release

the decisions of the Conference of Presidents on the new selections and renewals of the mandates of the members of the independent authorities have been unanimous²⁴⁰. Nevertheless, they do not disclose information on the nomination procedure. The Press Releases of Parliament issued in 2008 simply stated that the constitution of the authorities was approved by the Conference of Presidents after consultation with the political parties.

The Greek appointments clause seems to represent an outlier compared to relevant institutional designs in other jurisdictions. We have located and compared various selection mechanisms in Council of Europe member states²⁴¹, namely, exclusive selection by the executive, shared power among the executive, the legislative and/or the judicial branches of government, checks and balances variations,²⁴² and exclusive selection by the legislatures. Irrespective of the constitutionality of the clauses applied in the other jurisdictions, the lack of transparency and parliamentary representativeness of the Greek selection mechanism is confirmed since the organ of the Conference of Presidents constitutes a unique case among the Council of Europe member states. More specifically, in the other jurisdictions, in checks and balances variations, as well as in cases where the institutional design of the appointments clause delegates the exclusive selection power to the legislative branch of

of Parliament on the selection of the members of the Supreme Council for the Selection of Personnel, dated, April 3, 2003. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=33fdd293-b800-424c-b4cd-4e7d0a31ee82>, date of access: 07.11.2010, iii) Press Release of Parliament on the new composition of the Hellenic Authority for Communication, Security, and Privacy, and the selection of new members of the Supreme Council for the Selection of Personnel, and the Hellenic Authority of Personal Data, dated July 22, 2003, available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=e25947c9-cedd-41d4-b758-98d2e757d08f>, date of access: 07.11.2010, iv) Press Release of Parliament on the Election of the new National Radio and Television Council and the Greek Ombudsman, dated February 14, 2008. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=d7d97e74-ec68-455f-b2b3-099b12d88e73>, date of access: 07.11.2010, v) Press Release of Parliament on the constitution of the Hellenic Personal Data Authority, dated March 11, 2008. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=26c7d095-f772-4f6e-bf1d-b5c8acecf2e5>, date of access: 07.11.2010, vi) Press Release of Parliament on the constitution of the Supreme Council for the Selection of Personnel, date May 16, 2008. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=d5a53e67-2d83-4bd3-975f-b6f00b7ef063>, date of access: 07.11.2010, vii) Press Release of Parliament on the constitution of the Hellenic Authority for Communication, Security, and Privacy, dated May 30, 2008. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=bb418843-d2a7-4779-bcb9-84f8976606d8>, date of access: 07.11.2010.

²⁴⁰ Only once a political party rejected the proposal of the Speaker of Parliament. It was the party of the Popular Orthodox Rally (LAOS), a party of the extreme right, whose representative stated that his party “disagrees with the procedure followed for the constitution of these two independent authorities [the National Council for Radio and Television and the Greek Ombudsman]”. Press Release of Parliament on the Election of the new National Radio and Television Council and the Greek Ombudsman, dated February 14, 2008. Available at: <http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=d7d97e74-ec68-455f-b2b3-099b12d88e73>, date of access: 07.11.2010.

²⁴¹ See index at the end. We have selected the appointments clauses of the national authorities regulating the fields of personal data, broadcasting, and ombudsmen institutions in Council of Europe member states. These clauses are codified in relation to the state organs which are competent for the relevant selection mechanisms.

²⁴² It is not clear from the relevant appointments clauses whether the legislatures are granted a veto power. Further research is needed in order to clarify the issue.

government, it is Parliament in Plenum that takes the decision. Parliamentary committees are excluded from such procedures in the vast majority of cases²⁴³.

²⁴³ In France pursuant to Article 13, par. 5 of the French Constitution as revised in 2008 the nominating power of the President of the Republic is exercised upon the public opinion of the competent permanent standing committee of each legislative chamber.

6. Conclusion

Since 1989, new incarnations of functionalism in separation of powers problems promoted by the Greek constitutionalists have served as a legitimising tool for passing legislation regarding the selection mechanisms of the members of the constitutional independent authorities that deviated from the formalistic interpretation of the constitutional dicta. Moreover, these functionalist approaches seem to have decisively influenced the jurisprudence of the Council of State in relation to the constitutionality of the relevant appointments clauses. The variations of the appointments clauses and the final convergent constitutional appointments clause of article 101A par. 2 moved irrevocably away from the exclusive appointing authority of the executive branch of government. The legal evolution of the appointments clauses, which were inspired by prototypes originating from other jurisdictions and adjusted to the Greek legal order, took multiple forms through time, that is, direct selection by the political parties and relevant societal groups, cooptation, checks and balances, pseudo-checks and balances, and the directorial system through the intersection of functions.

Each time the government proposed a new appointments clause, the Rapporteurs of the draft laws and competent Ministers praised the legislative initiative for its originality in relation to relevant practices in other jurisdictions. However, was it a misconceived institutional avant-garde which disregarded the constraints of the Greek Constitution? The paradigm of the U.S. proves our point. Scholars and the jurisprudence of the Supreme Court have always supported the view that the appointments clause of the Constitution applies for the selection of the heads and members of the boards of the independent agencies. Otherwise, the checks and balances principle, which is the essence of the U.S. Constitution, would be violated. In other words, even if there were an amendment of the U.S. Constitution delegating the exclusive appointing authority to Congress, this would inevitably harm the checks and balances principle as incorporated in the separation of powers system. In *Buckley v. Valeo*²⁴⁴ the Court stated: *"The Framers regarded the checks and balances that they had built into the tripartite Federal Government as a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of the other. As Madison put it in Federalist No. 51: 'This policy of supplying, by opposite and rival interests, the defect of better motives might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other -- that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State'".* Contrary to the U.S. paradigm, functionalist approaches regarding the appointments clauses in independent authorities as reflected in the commitments of member states to International Governmental Organisations seem to have partly violated the coherence, balance, and logic of the existent political systems in established and new democracies.

Is the appointments clause of article 101A, par. 2 constitutional? The deadlocks of the parliamentary review and the precondition for almost unanimous decisions seem to create a tautological and autistic mechanism where the whole political system

²⁴⁴ *Buckley v. Valeo* 424 U.S. 122 and 123, 1975

assumes a novel kind of collective responsibility which is unorthodox on its own. Under such circumstances, the concept of opposition vanishes, and phenomena of collusion and complicity might arise. The constitutional revision of the principle of the separation of powers enshrined in article 26 of the Constitution without prior serious evaluation of its impact might easily lead to imbalances, and distortions. Indeed, the aggrandizement of the legislative branch of government through the phenomenon of the intersection of functions has created a directorial system, thus adding new types of political systems within the predominant majoritarian system. The analysis of the empirical data that follows might shed some light on whether the institutional design of the appointments clause could justify a fear of the legislative branch of government.

Chapter 2

The Delegatory Relationship: The Political Decision-Makers and the Members of the Constitutional Independent Authorities

Testing the Degree of the Members' Involvement in Public Life

1. Introduction

The unit corresponds to the empirical part of the delegatory relationship, namely the identification of the agents-regulators who were finally appointed to the four constitutional independent authorities by their principals-political decision-makers. Principal-agent analyses consider appointments as one of the political decision-makers' formal ex ante controls over independent authorities. Thus, the degree of the de facto independence of these authorities from the political decision-makers may be decisively affected by the profile of the appointees. Moreover, contrary to economic or social regulation, political decision-makers have a double role in regulation inside government since they are simultaneously principals in the delegatory dyad, and agents in the external at arm's-length dyad. Indeed, the regulators find themselves in the middle of a linear and simultaneous double relationship with the same actor (political decision-makers) as principal (legislature, government) and agent (political supervisors of the bureaucracies under regulation). In other words, the principals select the agents who will control them afterwards. Consequently, we could argue that the degree of the de facto independence of the authorities from the political decision-makers should be equal to their de facto independence from public administration.

The unit is divided into two parts, whereas an explanatory text on the applied methodology precedes the analysis. The construction of four databases, one for each authority, serves as the main source of information regarding all the appointed members of the authorities from the date of their establishment until December 31, 2010²⁴⁵. An innovative aspect of the research consists in the use of the government gazette since almost all the data are derived from this informational tool. More specifically, each database contains all necessary empirical data regarding the members' appointment, resignation, end of mandate, and reappointment in the authority as well as their main occupation, possible functional accumulation status, and other appointments in the public sector before, during and after their term of office on the authority.

The first part of the unit is partly inspired by Mark Thatcher's paper (2005) analyzing among others the elected politicians' formal controls over IRAs in a cross-national and cross-sectoral perspective. Thus, we present in detail the members' professional status, relational distance from the regulatees (public or private sector), resignations, end of mandate, reappointments, length of tenure, and functional accumulation status²⁴⁶. However, our work is differentiated from that of Thatcher's in two respects: first, the relevant legal framework regulating the issues under research precedes the empirical analysis. Indeed, testing how legislation was formulated and finally applied

²⁴⁵ Our research ends on December 31, 2010.

²⁴⁶ See Index 5 for the full texts of the clauses relating to some of these parameters.

might lead to interesting conclusions regarding the legality of the principals' action, and its consequences for the appointees' career in the authorities. Second, we introduce the concept "functional accumulation" which was coined by J. Raadschelders (1994). "Functional accumulation" describes the phenomenon according to which career civil servants could occupy two or more public posts simultaneously or combine a public position with a private one. This situation was common in the Netherlands and elsewhere until the middle/late 19th century since bureaucratization was still weak. Thus, career civil servants were employed for two or three days a week due to low workload. Therefore, they were forced to supplement their income through employment in other positions. On the contrary, the grant of the privilege of functional accumulation seems rather paradoxical in the modern professionalized public administration, independent authorities included. It could be interpreted as favorable treatment of certain professional categories, and an indication of oligarchisation. On the other hand, functional accumulation impacts on the effective operation of the authorities leading inevitably to the paradox of de-professionalization in an otherwise extremely professionalized world.

In the second part of the unit, the four databases serve as summary *curricula vitae* containing the members' career paths in the public sector in a diachronic perspective, namely before during, and after their term of office on the independent authorities. The four databases are, in turn, unified into an index imaging the members' overall involvement in public life. The concept of involvement in public life is divided into six thematic dimensions, namely the members' political involvement, institutional involvement, financial involvement, institutional and financial involvement, scientific involvement, and civil society involvement. Furthermore, a second index is constructed imaging the members' time dimension involvement in public life. In other words, the index presents the members' career paths by authority on a temporal basis, that is, before, during and after their term of office. The second index helps us follow the evolution of their careers, and locate cases of functional accumulation.

The empirical data derived from the two indexes are analysed by authority and professional status in three stages. Thus, we examine the broadness and intensity of the members' involvement in public life, and also cases of functional accumulation. Finally, important appointments in the members' career paths on a temporal basis, namely before or after their mandate, are emphasized.

The purpose of this unit is to explore the appointees' profiles and career paths in the public sector, and therefore test their degree of involvement in public life. A high degree of involvement in public life could inevitably be a sign of low degree of independence from the political decision-makers and public administration. On the other hand, the tactics followed by the political decision-makers regarding the members' replacements and reappointments might also be part of the political decision-makers' control mechanisms over the authorities.

2. Methodology

The Government Gazette, in print edition and uploaded on the official website of the National Printing Office, serves simultaneously as source of information and methodological tool in order to i) construct four databases containing information on the members of the four independent constitutional authorities, and ii) test the degree of the members' involvement in public life, namely identify the total number of the members' appointments to various posts in the public sector before, during, and after their term of office on the constitutional independent authorities.

The idea of the Government Gazette draws inspiration from its application in the works of Moschopoulos and Prokopiadou (2003), and Vlissidou (2008). In the first case, the authors proceed to the mapping of the administration of the Greek state during 1833-1845²⁴⁷. The exploitation of the informational material of the Government Gazette permitted the imaging of the i) functions, structures, hierarchies, and the positions in the administration as defined in the organisational charts, ii) the administrative divisions of the territory (regional and local administrations), their seats and villages, and the iii) distribution of the public services of the territory, in combination with the positions of the organisational charts corresponding to these services. According to the authors, the scientific benefits of the database consist in *“the preparation of historical reports on Greek Administration. In specific, it sheds light on the hidden depths of public administration during 1833-1847, which has not been overall documented due to the lack of information tools and sources (i.e. data on employee's status, organizational charts, etc.). Moreover, this database provides the necessary information material for the development of Geographic Information Systems (GIS) on administrative and history issues, as well as biographical dictionaries on political and administrative officers of that time period”*²⁴⁸.

In the second case, Vlissidou in her postgraduate thesis captures the reclassifications and transfers of civil servants to the ministry of Economy and Finance and the ministry of Culture during 2001-2006. The goal of the research was to shed light on the procedures of transfers and reclassifications of civil servants through the identification of illegal cases which may be interpreted as a sign of clientelistic practices.

Apart from the Government Gazette, we drew complementary information from other sources, namely the google search engine, and high circulation daily newspapers as uploaded on the internet. The period under research extends from January 1, 1992 until December 31, 2010²⁴⁹. We searched for information regarding appointments to

²⁴⁷ The authors and a team of students of the Department of Archives and Library Science of the Ionian University, who collaborated on the collection of the data, used the print editions of the Government Gazette. The National Printing Office uploaded all the relevant issues of the Government Gazette on its official website in 2010. However, the electronic search of data through the words-key search engine of the Government Gazette is still not feasible for the period before the year 1991. Finally, Prokopiadou, Papatheodorou, and Moschopoulos (2004) analyse the methodology applied for the construction of the information tools regarding the mapping of the administration of the Greek state during 1833-1845. The full content of the relevant database is uploaded on the Official Website of the National Documentation Centre, Database: HELM – Official Gazette of Greece, 1833-1847, available at: http://argo.ekt.gr/opac2/Help/Databases/ENU/18_Doiaiki_EN_.html, date of access: 12.6.2011.

²⁴⁸ Abstract from the database HELM – Official Gazette of Greece, 1833-1847. See note above.

²⁴⁹ We extended the research until the first trimester of 2011.

the public sector for the 130 members of the four authorities under study. In order to achieve this, we entered the members' names to the words-key search engine of the Government Gazette. We managed to collect data for 111 members, distributed as follows: 43 of 56 members from the Supreme Council for the Selection of Personnel, 35 of 39 members from the Hellenic Data Protection Authority, 15 of 15 Ombudsmen and Deputy Ombudspersons from the Greek Ombudsman, and 18 of 20 members from the Hellenic Authority for Communication, Security and Privacy. However, the method of the search engine of the Government Gazette presents some limitations. First, the words-key search may only be applied for the year 1992 onwards, and for the volumes A, B, D, and AE-EPE. Consequently, we could not apply the words-key search to the volumes C and NPDD for the period 1992-1999. However, from the year 2000 onwards, the method may be fully applied for all the issues of the Government Gazette. We should point out that these limitations did not deprive us of valuable information since issue B contains the regulatory decisions of ministers, or other organs of the Administration. Our research shows that the establishment of the authorities by the end of the nineties and at the beginning of the 2000s, with the exception of the Supreme Council for the Selection of Personnel, coincides with the selection of members with rich career paths in the Greek public life during the decade 2000-2010.

At this point, we briefly present in Table 1 the content of the volumes of the Government Gazette which are related to appointments in the public sector. The content of the issues of the Government Gazette is regulated by articles 9 and 10 of the law 301/1976 as amended by articles 6 and 7 of the law 3469/2006. Since our research starts from 1992 and ends in 2010, any changes in the content of the issues, as incorporated in the amendment of 2006, should be noted. Therefore, Table 1 presents the content of the volumes of the Government Gazette before and after the amendment of 2006.

After the collection of all the data, we constructed four databases, one for each authority (see appendices 1, 2, 3 and 4), divided in nine dimensions containing various information on the total number of the 130 members, as appointed to each authority by chronological order. The first dimension comprises the initials of the names and surnames, whereas the members are identified through their codification and classification by professional status. We considered that the protection of personal data should be respected despite the fact that these data have already been published in the government gazette, the annual reports, and the newspapers. On the other hand, the codification facilitates the processing of information. The members' professional status, that is, their main occupation, and their abbreviated codification are as follows: i) University Professors (U), ii) Judges (J), iii) High-ranking civil servants (CS), iv) Legal Councillors of State (LC), v) Free-lance Professionals, (FP), vi) Lawyers with a salary mandate in the public sector (LM). These abbreviations are accompanied by the serial number each member possesses in the relevant appendices.

The second dimension refers to the members' appointment to the authority as derived from the Government Gazette. It contains the number of the issue, the date of the publication, and the member's position and title in the authority. Moreover, we provide information on their term of office, its renewal, and their replacements. The

Table 1. Content of the issues of the Government Gazette regarding appointments in the public sector (public administration)

<i>Law</i>	<i>Content of Issues</i>
<i>301/1976</i>	
Issue	
A	Presidential Decrees regarding the Ministers' or Deputy Ministers' appointment, acceptance of resignation, or dismissal
B	All regulatory decisions of the Ministers or decision of other organs of the administration
C	All acts regarding the appointment, promotion, demotion, transfer, acceptance of resignation and dismissal of public functionaries, political and military employees of all categories
NPDD*	All acts regarding the appointment, promotion, transfer, acceptance of resignation and dismissal of the employees of Public Law Legal Entities
AE-EPE**	The acts for the establishment of anonymous companies and limited liability companies with summaries of their statute or its amendments, as well as any other act referring to the above mentioned companies and the public enterprises or organisations operating under the status of private law and its publication in the government gazette as provided for in the relevant legislation
<i>Law 3469/2006</i>	
A, B	Content as provided for in Law 301/1976
C	In summary, personal decrees and acts of appointment, transfer, demotion, acceptance of resignation and dismissal of public functionaries, public political or military employees of all categories, the personnel of independent administrative authorities, and the employees of public law legal entities
NPDD	The issue was abolished since all relevant acts were incorporated into Issue C
YODD***	The issue contains i) acts of appointment, acceptance of resignation or replacement of the Secretary General of the Presidency of the Government, the Secretary General of Parliament, the Secretary General of the Government, the Secretaries General of Ministries, the Secretaries General who are heads of General Secretariats of Ministries and the Secretaries Special who are heads of the Unified Administrative Sectors of Ministries ii) the decrees and acts for the appointment, renewal, the acceptance of resignation or dismissal of the members of the independent administrative authorities iii) the decrees and acts for the appointment, renewal of mandate, acceptance of resignation or dismissal of single-headed or members of collective bodies of administration of public sector bodies, public law legal entities, private law legal entities, foundations and other bodies pertaining to the broader public sector, as is defined each time, and specifically the governors, deputy governors, directors, deputy directors, presidents, vice-presidents, CEOs and members of administrative boards and their alternates, iv) acts of constitution of any kind of committees, boards, working groups and similar organs of advisory or other competence, as long as their members receive any kind of remuneration or compensation v) summaries of the acts of appointment, acceptance of resignation, revocation of appointment and dismissal of the personnel of the Presidency of the Republic, the heads and directors, the special advisors, the special collaborators and revocable employees of the Political Bureau of the Prime Minister, the General Secretariat of the Government and the political bureaus of the Ministers and Deputy Ministers and those treated as revocable employees, the scientific collaborators of the members of Parliament and the European Parliament, as well as secondments and revocation of secondments of employees to the above mentioned bureaus, and to the bureaus of Secretaries General of ministries, Secretaries General who are heads of General Secretariats of Ministries and the Secretaries Special who are heads of the Unified Administrative Sectors of Ministries, and the bureaus of the members of Parliament and the European Parliament, vi) summaries of the decisions of the appointment of presidents, CEOs and members, as well as the constitutions of the Boards of Public Enterprises and Organisations of the First Chapter of the law 3429/2005
A.E.-EPE-GEMI	Content as provided for in Law 301/1976

* NPDD stands for: Public Law Legal Entities, ** AE-EPE stands for: Anonymous Companies-Limited Liability Companies

*** YODD stands for: Employees of Special Positions and Organs of Administration of Bodies of the Public and Broader Public Sector**** A.E.-EPE-GEMI stands for: Anonymous Companies-Limited Liability Companies and General Commercial Registry

third dimension refers to the members' retirement, that is, either cases where their mandate ended or the member submitted his or her resignation. On many occasions, the reasons for these resignations are also presented (e.g. new appealing posts in the public sector). The fourth dimension contains the members' previous main occupation and title, as derived from the government gazette and the annual reports. This dimension serves as a source of information for the codification of their professional status.

In the fifth dimension, we have tried to collect any direct or indirect information related to the members' party affiliation as well as their participation in trade-unions, and NGOs. It is difficult to detect the members' party affiliation. Even if all of them were card-carrying members, it would be impossible to obtain such information. However, some of the members have positions in political parties, and generally participate in their activities. This is publicly known through the official websites of the political parties. Other members of the authorities stood or held public office supported by certain political parties. On the other hand, trade-unionism in Greece is closely linked to the political parties represented in Parliament, and that could serve as indirect information for party affiliation. In other words, it is highly probable that an active trade-unionist may be a card-carrying member. Finally, an experimental research on the members' participation in NGOs could help in detecting whether there are any links between high ranking public functionaries, as the members of the independent authorities, and civil society. As Baviskar (2005) states: "*NGOs have been around for quite some time and they are likely to remain with us in the foreseeable future. Systematic studies²⁵⁰ are required to say anything with confidence about them. In the absence of such studies our understanding of NGOs will remain vague, superficial, and hazy*". Moreover, a sample of Greek politicians, who participated as interviewees in a research programme on corruption in Greece, expressed their reservations over the independence of NGOs, and therefore doubted their ability or intention to mitigate corrupt practices since they are funded by the state. They are considered either as "governmental armies" or "mouthpieces of extra-institutional centres". (Lambropoulou, Papamanolis, Ageli, Bakali, 2008).

The sixth dimension refers to cases of functional accumulation in the sense that the members exercise another public function or occupy another public post during their term of office. The seventh, eighth, and ninth dimensions detect the members' appointments in the public sector, that is, appointments to governmental positions, various public committees and commissions, and management boards of organizations, enterprises and public or private law legal entities of the public sector in Greece, as well as other appointments to regional or international organizations,

²⁵⁰ Baviskar (2005) explains the lack of serious research in the field as follows: "*The literature on NGOs mainly consists of broad descriptive histories and sometimes globalised accounts of their achievements in the form of evaluation studies. One of the reasons for the absence of rigorous studies is perhaps the close collaboration between academics and the NGOs' practical work. Other social scientists have close links with NGOs, and since many NGOs operate in the cross-disciplinary space between academic research and activist intervention (policy study and advocacy, training and capacity building, social work and service delivery etc.) they offer to academics many opportunities to pursue their work in the domain of non-academic practice. This collaboration has prevented many scholars from subjecting NGOs to the same scrutiny as other social institutions. Although NGOs claim to believe in openness and transparency, many of them are not open to scrutiny by outsiders. Those who have achieved a degree of success and fame are often hostile to any objective studies by outsiders not approved by them*".

before (eighth dimension), during (seventh dimension), and after their term on the authority (ninth dimension). Cases where members held or stood for public office (local, national, or European) are equally taken into consideration.

The data derived from the fifth, seventh, eighth, and ninth dimensions of the four data bases, that is, any evidence for party affiliation or membership in trade unions and NGOs as well as the various appointments in the public sector without taking into consideration at this stage their temporal aspect, led to the construction of the members' involvement in public life index. More specifically, the index contains the members' career paths in public life, as derived from the sources, and is divided into six thematic dimensions, namely the members' political involvement (P), institutional involvement (I), financial involvement (F), institutional and financial involvement (IF), scientific involvement (S), and civil society involvement (CS). In other words, the scattered data of the sources corresponding to political or civil society membership and a series of appointments in government and the public sector that shared common characteristics were grouped into thematic dimensions which, in turn, were further split into their initial components that is, the specific career paths.

The first thematic dimension comprises appointments or participation in elections and/or membership in trade unions and political parties that may be considered as indicative of political involvement. The second dimension comprises the members' involvement in aspects of public life with significant institutional impact. Thus, the members' participation in the construction of the institutional design of public policies through various legislative drafting committees and various consultative groups, as well as in the implementation level of governance or the top of the hierarchy of the supreme courts constitutes the dimension of institutional involvement. The third dimension, that is, the financial dimension, exclusively refers to the members' involvement in the management of public money. The fourth dimension combines aspects of the institutional and financial dimensions and refers to cases where the members are appointed either as heads or members of the management boards of public sector agencies. Those appointed to run these agencies are responsible not only for the creation and implementation of agency specific policies but also for the financial management of the sources available from the public budget. The fifth dimension seeks to identify the members' involvement in the scientific life in Greece and abroad. Participating as special scientists in scientific committees, research centres or think tanks, being appointed to the management boards of research centres and institutes, teaching in higher education institutions and other specialized public schools constitute the main aspects of the dimension. The purpose of encompassing the last dimension entitled civil society involvement was two fold. First, we wanted to test whether high-ranking public functionaries participate in NGOs, thus simultaneously assuming double roles both inside and outside the state. Second, we could reach interesting conclusions, if membership in NGOs is combined with involvement in other dimensions of the index, especially the political one.

In turn, these career paths are matched with the codified members by authority. In some cases the codifications are accompanied by numbers in parentheses. These numbers correspond to the number of appointments a member possesses in the various categories of the index, e.g., a member may have been appointed to legislative drafting committees six times. Such cases show the intensity of the members' involvement. The index is presented in detail in Appendix 6. Furthermore, we

constructed another index (see appendix 7) imaging the members' time-dimension involvement. In other words, the index presents the members' career paths by authority on a temporal basis, that is, before, during, and after the members' mandate.

The empirical data derived from the Members' Involvement in Public Life Index are analysed by authority and professional status in three stages. The first stage examines the variations of the members' involvement, that is, the multiple combinations of the thematic dimensions of the index. The study of the first stage enables us to draw conclusions in relation to the broadness of the members' involvement in public life. The second stage comprises the measurement of the intensity of the members' involvement, namely how many times a member appears in the index, irrespective of the type of involvement. The intensity of the members' involvement is divided in three scales: low (1-5 times), medium (6-10 times), and high (>11 times). The third stage detects the members' functional accumulation status which has two facets. One facet refers to cases where the members occupy another public post or exercise a private profession, or even combine both, during their term of office. The other facet refers to cases where the members are appointed to the various posts of the public sector comprised in the index during their mandate. Both facets of the functional accumulation status may simultaneously take place. Finally, important phases and evolutions in the members' career paths on a temporal basis, namely before or after their mandate, will be emphasized.

Finally, in most cases, certain members are appointed to the various posts of the index when a certain political party is in power. However, cases where the same individuals are appointed to public posts by adversary political parties when in power are not rare. Table 2 shows the Greek Governments since 1981 in order to facilitate the reader in matching the dates of the members' appointments, as published in the government gazette, with the political parties in power.

Table 2 The Greek Governments since 1981

Prime Minister	Governing Party	From	Until
Andreas Papandreou	Panhellenic Socialist Movement	21.10.1981	5.6.1985
Andreas Papandreou	Panhellenic Socialist Movement	5.6.1985	2.7.1989
Tzannis Tzannetakis	Coalition Government	2.7.1989	21.10.1989
Ioannis Grivas	Caretaker Government	12.10.1989	23.11.1989
Xenophon Zolotas	Oecumenical Government	23.11.1989	11.4.1990
Konstantinos Mitsotakis	New Democracy (right wing party)	11.4.1990	13.10.1993
Andreas Papandreou	Panhellenic Socialist Movement	13.10.1993	22.1.1996
Konstantinos Simitis	Panhellenic Socialist Movement	22.1.1996	25.9.1996
Konstantinos Simitis	Panhellenic Socialist Movement	25.9.1996	13.4.2000
Konstantinos Simitis	Panhellenic Socialist Movement	13.4.2000	10.3.2004
Konstantinos A. Karamanlis	New Democracy (right wing party)	10.3.2004	19.9.2007
Konstantinos A. Karamanlis	New Democracy (right wing party)	19.9.2007	7.10.2009
Georgios A. Papandreou	Panhellenic Socialist Movement	6.10.2009	Today

Source: The Official Website of the General Secretariat of the Government, available at: http://www.ggk.gov.gr/?page_id=776, date of access: 24.5.2011

3. The institutional design and analysis of the empirical data

a. The Supreme Council for the Selection of Personnel

i. The institutional design regarding the members' professional status, selection criteria, term of office, and functional accumulation

- *The legal framework before the constitutional revision of 2001*

The founding law 2190/1994²⁵¹ of the Supreme Council for the Selection of Personnel clearly defined the professional provenance of the appointed Councillors, namely, individuals who were currently serving or had served as high-ranking public functionaries or public servants, professors or associate professors in institutions of higher education, or high-ranking officials of the broader public sector. However, the criteria over the qualities of the appointees were general and vague since they should be “individuals of recognised standing, and professional sufficiency”. The law set appointment age limits²⁵², and provided for a six year-term of office which could be renewed. Moreover, it set a quota over the number of the appointees who could enjoy the status of functional accumulation, that is, five of the appointed members could simultaneously occupy two public posts²⁵³ for a three-year period. The functional accumulation status was extended for two more years²⁵⁴. However, the measure was abolished²⁵⁵ with the exception of those members who, by the time of the amended clause, already had two parallel public occupations, and, consequently, fell under the ambit of the previous legal framework which provided for the two-year extension. Therefore, the newly appointed Councillors, who were active public employees or functionaries, could not enjoy the functional accumulation status since they would fill the relevant post in the authority through the assignment of duties with a full six-year mandate.

²⁵¹ Article 4, par. 2 of the law 2190/1994.

²⁵² The clause provided that the “*Councillor and President or Vice President shall be less than 70 or 75 years of age, respectively, at the time of their appointment*”.

²⁵³ Article 104 of the Constitution provides that: “1. None of the employees mentioned in the preceding article (article 103 entitled administrative agents) may be appointed to another post of the civil service or of local government agencies or of other public law legal persons, or of public enterprises or public utility agencies. As an exception, appointment to a second post may be permitted by special statute, in compliance with the provisions of the following paragraph. 2. Additional salaries or emoluments of any kind of employees mentioned in the preceding article may not exceed the total salary received per month from their post which is provided by law”. The scientific report of Parliament that accompanied the draft law “Establishment of an independent authority for the selection of personnel and regulation of public administration issues” considered this clause as a special statute since article 81 of the Code of Civil Servants in force -Presidential Decree 611/1977- prohibited the occupation of a second post in the public sector, Source: The Official Website of the Hellenic Parliament, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=8a98f188-db06-4992-b959-92ebac1856e8, date of access: 25.06.2010.

²⁵⁴ Article 24 of the law 2503/1997.

²⁵⁵ Article 20, par. 1a of the law 2738/1999.

- *The legal framework after the constitutional amendment of 2001: the executive law 3051/2002 of the Constitution on the constitutional independent authorities*

The professional provenance or criteria over the qualities of the appointees of the constitutional independent authorities are not specifically defined in the clause of article 3, par. 1 of the executive law 3051/2002 of the Constitution. The qualifications of the appointees are described in a general manner²⁵⁶. The members serve a four-year mandate²⁵⁷, “*renewed in a manner that ensures the continuity of the independent authorities, according to par. 3 article 5 of the law hereof*”. Thus, the new law introduced the mechanism of staggered terms in order to ensure continuity through the draw of lots²⁵⁸. Regarding the issue of the expiry of the members’ term of office, the President of the Authority notifies the Speaker of Parliament of the names of those members whose mandate ends. The notification takes place two months before the expiry of the members’ term. In case of death, resignation or removal of a member of an independent authority, a new member is appointed for the remainder of the mandate. However, the members may not be selected for more than two terms, consecutive or not. Their term of office is *ipso jure* extended until the appointment of new members. The formulation of the text of the last sentence of the clause seems rather problematic, and misleading. In reality, the *ipso jure* extension of the mandate until the appointment of new members is contradictory to the very essence of the concept of tenure which is time-limited. On the contrary, the clause sets no explicit time limits within which the new appointments have to take place. Moreover, par. 1, article 101A of the Constitution provides that “In cases where the establishment and functioning of an independent authority is provided by the Constitution, its members shall be appointed for a fixed tenure and shall enjoy personal and functional independence, as specified by law”.

Regarding the functional accumulation status during their mandate, the members are suspended from the exercise of any public function as well as the exercise of duties in public services, public law legal entities, and legal entities of the broader public sector. They are allowed to exercise duties as members of a University faculty on a part-time basis. However, the President of the Authority cannot exercise any other professional activity, and fulfils his duties on a full-time basis. Specific provisions establishing the suspension of professional activities, barriers, and incompatible activities and capacities of the members during their mandate or after that remain in force.

²⁵⁶ The clause reads as follows: “*As members of the independent authorities are selected persons of recognized standing and scientific training or professional experience in issues related to the mission and responsibilities of the authorities*”.

²⁵⁷ Article 3, par. 2 of the executive law 3051/2002 of the Constitution.

²⁵⁸ The process takes place immediately after the decision of their selection by the Conference of Presidents. To stagger the terms, half of the members shall begin with four-year terms, whereas the other half will serve two-year terms. The President of the Authority is excluded since he is appointed with full mandate.

ii. Analysis of the empirical data

Paragraph 1 of Article 4 of the law 2190/1994 regarding the number of the members of the Supreme Council for the Selection of Personnel has been amended four times since 1994²⁵⁹. The empirical data comprise 56 members, Presidents and Vice-Presidents included, appointed during the period 1994 to December 31st, 2010.

Table 3 shows the professional status, that is, the principal occupation, of the 56 members. The overwhelming majority of them come from the public sector (95%, 53 of 56), whereas judges and high-ranking civil servants²⁶⁰ represent 86% of those appointed during the period under research. As for gender distribution, men represent 87% (49 of 56) of the total number of members, whereas women reach 13% (7 of 56).

TABLE 3

Professional Status of the Members of the Supreme Council for the Selection of Personnel (1994-31.12.2010)

	Judges	High-ranking Civil Servants	University Professors	Legal Councillors of the Legal Council of State	Free-lance Professionals
% Members' Professional Status	54% (30 of 56)	27% (15 of 56)	9% (5 of 56)	5% (3 of 56)	5% (3 of 56)

Source: The Government Gazette and Annual Reports

All the selected judges were retired from service. The judges' ranks and titles, and the courts, where they had previously served, are as follows: 6 Vice-Presidents of the Supreme Court of Civil and Penal Law, 3 Vice-Presidents of the Court of Audit, 1 General Commissioner of the Administrative Courts, 2 Councillors of State, 11 judges of the Supreme Court of Civil and Penal Law, 1 judge of the Court of Audit, 4 Presidents of the Administrative Courts of Appeals, and 1 Court of Appeal President. It is noteworthy that 10²⁶¹ of 27 judges were appointed Vice-Presidents of the Supreme Courts by the executive²⁶².

²⁵⁹ Article 4, par. 1 of the law 2190/1994 provided for nine Councillors, a President and a Vice-President; article 1 par. 7 of the law 2349/1995 increased the number of Councillors providing for 2 more members; article 20 par. 1a of the law 2738/1999 provides that the Council is made up of a twenty-one member Board, that is, President, two Vice-Presidents and eighteen Councillors; article 16 par. 1 of the law 3146/2003 provided for twenty-one Councillors; article 6 par. 1 of the law 3839/2010 increased the number of Vice-Presidents and Councillors, that is, three Vice-Presidents, and twenty-four Councillors.

²⁶⁰ We included in this category the 3 Legal Councillors of State (high-ranking public functionaries).

²⁶¹ Six of them were selected through the co-optation system, whereas two of six were reappointed after the constitutional revision of 2001.

²⁶² The promotions of judges to the posts of Presidents and Vice-Presidents of the Supreme Courts are regulated by Article 90, par. 5 of the 1975/1986 Constitution, and article 49 par. 3 of the law 1756/1988 as follows: "Promotion to the post of President and Vice-Presidents of the Council of State, the Supreme Court of Civil and Penal Law, the President, Vice-Presidents and the General Commissioner of the Court of Audit, and [the General Commissioner of Administrative Courts: law 1756/1988] shall be effected by presidential decree issued on the proposal of the Cabinet, by selection from among the members of the respective supreme court, as specified by law".

However, the practice of appointing retired judges has been severely criticised on many occasions²⁶³ in recent years. Furthermore, in 2010, the Special Permanent Standing Committee on Institutions and Transparency in its report²⁶⁴ proposed that not only active judges but also retired ones should not be appointed to salaried state posts, except for legislative drafting committees. On the other hand, the report supported the widespread view in legal literature (Choromidis, 1980, 2001; Chryssanthakis, 2002; Brakoumatsos, 2008) that the promotion of judges to the highest ranks of the Supreme Courts by the Cabinet was arbitrary, thus creating aspirations for the candidates to gain partisan favouritism. As for the judicial officials, the report stated that on many occasions they “*do not decide based on law and evidence, but rather act carried away by interventions and pressures exerted by external factors or based on their ideological and partisan preferences, thus calculating possible future prospects of promotion or employment after their retirement*”²⁶⁵. Not surprisingly, these cynical statements came after the promulgation of the law 3841/2010 which guaranteed the participation of the Conference of Presidents in the promotion of judges to the highest ranks of the Supreme Courts²⁶⁶. However, the participation of the legislative in the selection process is not consistent with the constitutional principle of the separation of powers, that is, the independence of judges²⁶⁷.

Table 4 shows the rank, and the public services of provenance of the high-ranking civil servants. The overwhelming majority of this professional category comes from the Ministry of the Interior (9 of 15). Moreover, 5 high-ranking civil servants have the rank of Director General, 3 that of Director, and 1 that of Assistant Director General. Only one pertains to the category of special scientists. At this point, it is considered relevant to briefly present the role and characteristics of high-ranking civil servants in the Greek public administration. Greece is a country with a weak administrative

²⁶³ During discussions in Parliament on the draft law, “*Protection of the individual against the processing of personal data*”, the MP Fotis Kouvelis (Coalition) stressed that his party was opposed to the participation of pensioners, either retired judges or university professors since it was common knowledge that it would be easier to control and manipulate someone retired. Moreover, he insisted that someone after his retirement identified himself more easily with a certain political perception. The MP Panagiotis Kouroumbis (PASOK) supported the view that the data protection authority should be constituted by judges on active service who may much more easily resist temptations for power compared to those retired. Minutes of Parliament, First Assembly, Session 100 discussion and debate in particulars, March 19, 1997 available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/19_03_97.pdf, date of access: 26.06.2010

²⁶⁴ Report of the Special Permanent Standing Committee on Institutions and Transparency, dated October 19, 2010. Source: The Official Website of the Hellenic Parliament, available at: <http://www.hellenicparliament.gr/UserFiles/510129c4-d278-40e7-8009-e77fc230adef/TEΛΙΚΗ%20ΕΚΘΕΣΗ%20ΤΗΣ%20ΕΠΙΤΡΟΠΗΣ%20ΘΕΣΜΩΝ%20ΚΑΙ%20ΔΙΑΦΑΝΕΙΑΣ.doc>, date of access: 19.5.2011

²⁶⁵ Source: The Official Website of Newspaper Eleftherotypia, article entitled: “Parliament against Justice for Corruption”, written by Elena Varinou, p. 7, available at: <http://enet.s3.amazonaws.com/2010/11/011110/EL01112010.pdf>, date of access: 18.5.2011

²⁶⁶ The law 3841/2010 guaranteed the participation of Parliament in the selection process of judges. The Cabinet preselects and proposes the candidates to the Conference of Presidents which, in turn, after a public hearing of the candidates, formulates a recommendation. The Cabinet takes the final decision, whereas the recommendation of the Conference of Presidents is not binding.

²⁶⁷ The proposals regarding the selection mechanism of the Presidents and Vice-Presidents of the Supreme Courts which have been formulated at times by judges’ unions, Supreme Courts administrative Plenaries, and scientific bodies may be classified into three categories: i) the provision for a special electoral body, ii) the system of judicial co-optation, and iii) selection by the President of the Republic (Brakamoutsos, 2008).

tradition, whereas it represents a case of “politicized bureaucracy, ridden by party patronage” (Sotiropoulos, 1994). The phenomenon of “bureaucratic clientelism”²⁶⁸, which dominated Greek politics after World War II, took its pure form in the post-junta era. Since 1981, career bureaucrats²⁶⁹ have not taken part in political decision-making which has been entrusted to political appointees under temporary working status. This category comprises the ministerial advisors and collaborators, the positions of secretary general/secretary special of a ministry, and that of the director of the minister’s political bureau. The role of career bureaucrats could be described as auxiliary, and is limited to the implementation of policies as formulated by the upper tiers of the bureaucracy. In the eyes of their political supervisors career civil servants simply represent the memory of the service. Politicization of the civil service in Greece has taken two forms: i) control over nominations and careers, and ii) civil servants’ political involvement. Within this context, civil servants’ promotions to the grades of heads of departments, directors, and directors general are greatly influenced by ministers or appointed management boards, on the one hand, and trade unions which are simple annexes of the political parties represented in Parliament, on the other. However, as Spanou (2008) stated “civil service politicization has never been openly admitted by governments”. Interestingly enough, the Greek crisis which started in 2009 seems to have reversed the politicians’ reluctance to admit reality over the issue. The Minister of the Interior, Ioannis Ragoussis, claimed that the new promotions system in the public service introduced by law 3939/2010 is based on merit, and admitted that “In one word, clientelistic relationships in promotions killed the public service”²⁷⁰.

Three members, that is, the members CS9 and CS11, enjoyed the privilege of functional accumulation for a certain period before their retirement from their main occupation. In other words, they served as Councillors of the Supreme Council for the Selection of Personnel while exercising their duties as Director General in their respective services. The member CS18 also enjoyed the status of functional accumulation. However, it could be characterized as an extreme case since that member was simultaneously Councillor at the Supreme Council for the Selection of Personnel and Director General at the same independent authority. Moreover, in our

²⁶⁸ Lyrantzis (1984), who coined the term, defines the concept of bureaucratic clientelism as follows: “Bureaucratic clientelism is distinct form of clientelism and consists of systematic infiltration of the state machine by party devotees and the allocation of favours through it. It is characterised by an organised expansion of existing posts and departments in the public sector and the addition of new ones in an attempt to secure power and maintain a party’s electoral base. When the state has always played a central role in both economic and political development, it is very likely that the parties in government turn to the state as the only means for consolidating their power, and this further weakens their organisation and ideology. Such a political party becomes a collective patron, with the clientelistic networks based on and directed through an intricate combination of party mechanisms and the state apparatus. In a system such as this the public bureaucracy is orientated less towards the effective performance of public service than towards the provision of parasitic jobs for the political clientele of the ruling sectors, in exchange for their political support”.

²⁶⁹ In 1982, the new PASOK Government abolished the post of director general assumed by career civil servants (Law 1262/1982). They were replaced by political appointees. Thus, the Director Generals’ cleansing eradicated the post war “right-wing State”. The grade of Director General was re-established by Law 2085/1992. However, it was a line position of middle-level management. Political appointees assumed the key positions in public administration.

²⁷⁰ Source: The Official Website of the Ministry of the Interior, Declaration of the Minister of the Interior to the Newspaper to Vima, Athens April 17, 2011, available at <http://www.ypes.gr/el/MediaCenter/Minister/Interviews/?id=7248ee33-c8e8-4d30-bfc1-ef47bf671434>, date of access: 19.5.2011.

opinion, she kept that working status longer than provided for in the relevant legislation²⁷¹.

TABLE 4

Rank and public service of provenance of the high-ranking civil servants

Codified Case	Rank	Public Service of provenance
CS9, CS17, CS38, CS39, CS51, CS52	Director General	Ministry of the Interior
CS11	Director General	Ministry of the Environment
CS18	Director General	Supreme Council for the Selection of Personnel
CS28	Director General	Ministry of Labour
CS29	Director General	Secretariat of the Athens Court of First Instance
CS41	Assistant Director General	Public Power Corporation
CS10, CS42	Director	Ministry of the Interior
CS55	Director	Treasury of State (Ministry of Finance)
CS30	Special Scientist	Ministry of the Interior

The University Professors, as professional category, are weakly represented in the Board of the Supreme Council for the Selection of Personnel (9%, 5 of 56). Their area of specialty is as follows: 3 Law Professors, 1 Mechanical Engineer, and 1 Rural and Surveying Engineer. Four of them were appointed through the co-optation system before the constitutional revision of 2001, whereas the three law professors served for short periods (2, 2.5, and 3 years) before their resignation. The member U6, a Rural and Surveying Engineer, was first appointed as member in 1994, and was elected Vice-President in 1999 through the co-optation system. He was selected as President of the Authority by the Conference of Presidents in 2003, whereas his mandate was renewed for four years in 2008. By the year 2012, when his term of office ends, he will have been serving for 18 years in the authority. One Professor Emeritus was appointed by the Conference of Presidents in 2006, whereas his mandate was renewed at the beginning of 2011. Finally, three University Professors obtained the functional accumulation status in the early days of operation of the authority (U6, U7, and U8).

Regarding the three Legal Councillors of State, it should be pointed out that the two had the rank of Vice-President of the Legal Council of State, and were promoted by the executive, namely, the Cabinet²⁷². Finally, the professional profile of the free-lance professionals is as follows: 2 lawyers and 1 economist specialized in Management.

The issue of the reappointment of many of the members of the authority after the constitutional revision of 2001 probably signifies both the coincidence of preferences

²⁷¹ The Councillor CS18 was appointed as Councillor in 1998. According to the text of her appointment as Councillor of the Supreme Council for the Selection of Personnel, she could also keep the position of Director General of the Secretariat of the same authority. The functional accumulation status for a three-year period was consistent with article 4 of the law 2190/1994 since it was abolished one year after the member's appointment. However, the member's parallel working status was extended for three more years in 2000 despite the fact that the possibility of extending the functional accumulation status for a two-year period – not a three-year one – could only be applied to those members who already served when the legislative measure of the two-year extension took effect in 1997.

²⁷² Article 16, par. 5 of the Royal Decree 6/1961 as amended by the Presidential Decree 282/1996.

between the political decision-makers and the members' peers through the co-optation system²⁷³, and the will of the Conference of Presidents to appoint members with previous experience. Thus, 12 members, who had served during the period 1994-2003, were reappointed after the constitutional revision of 2001, whereas their tenure ranges from 7.4 to 18 years as shown in table 5. In two cases (J27 and CS29) the mandates were not consecutive. However, it is quite awkward that they had already been awarded the title of Honorary Councillor²⁷⁴ before being once more reappointed.

TABLE 5
Reappointments after the Constitutional Revision of 2001 and duration of mandate

Members	Period	Years
U6	1994-2012	18
CS10	1994-2007	13.3
CS18	1998-2011	13
CS30	1999-2012	12.4
CS11	1994-2006	12.1
J32	2001-2012	11.3
J27	1999-2006, reappointed in 2011 (-2015)	10.7
J13	1999-2010	10.5
J15	1998-2008	10.3
CS9	1994-2004	10
CS29	1999-2003, reappointed in 2007 and 2008 (-2012)	8.5
LC33	2001-2008	7.4

Source: The Government Gazette

Regarding premature departure from office, there is no indication of formal dismissal enacted by the political decision-makers. However, resignations are not rare. One category of resignations, that is, 9% of the members, consists of judges who left office due to age limit²⁷⁵. As for the resigned members pertaining to the second category (20%, 11 of 55), their principal occupation is as follows: 2 high-ranking Civil Servants, 3 University Professors, 1 Legal Councillor of State, and 5 Judges. However, three of the five judges (J23, J36, J46,) resigned when their mandate expired, whereas their replacement took place after eight months. The two high-ranking civil servants (CS9 and CS52), both ex Director Generals at the Ministry of the Interior, resigned²⁷⁶ for professional reasons since they immediately took political positions. One member (CS9) was appointed Secretary General to the Ministry of the Interior when the party of New Democracy won the elections in 2004, and resigned when the party of PASOK became government in 2009. Interestingly enough, his successor in the position, appointed by the government of PASOK, was the other high-ranking civil servant (CS52), ex Director General at the same Ministry.

The average length of tenure of the members is higher than that of a minister or a government (6.4 years). Three reasons justify the result: i) the long six-year mandate provided for in legislation before the constitutional revision of 2001, ii) the

²⁷³ The Ministerial Decision ΔΙΠΠ/Φ.ΑΣ. 1/οικ. 17649 (Government Gazette, vol. B, no 616, 13.7.1995) contained the Regulation regarding the procedure, submission of candidacies, and selection of the members of the Supreme Council for the Selection of Personnel.

²⁷⁴ The Councillor CS29, Government Gazette vol. C, no 100, 2.5.2003 and the Councillor J27, Government Gazette, vol. C, no 209, 7.8.2006.

²⁷⁵ Article 4 par. 2 of the law 2190/1994. The executive law 3051/2002 of the Constitution regarding the constitutional independent authorities did not provide for age limits.

²⁷⁶ Her resignation from the authority was never published in the Government Gazette. The information is available at the Annual Report of the Supreme Council for the Selection of Personnel for the year 2009 published in the Government Gazette, vol. B', no 1096, 21.07.2010, p. 15223.

reappointment of many members, and iii) the long delays in the members' replacement despite the expiry of their mandate. However, the third reason has raised judicial controversy. Indeed, article 3, par. 2 of the executive law 3051/2002 of the Constitution provides that "*their [the members'] term of office is ipso jure extended until the appointment of new members*". According to the Decision 1098/2011 of the Council of State, Division D²⁷⁷, the clause should be interpreted in accordance with the constitutional demand that the authorities continue to operate only for a reasonable period of time after the expiry of their members' mandate. In the view of the majority of the judges, after the passage of a reasonable time that will be judged according to the relevant current circumstances, the Constitution no longer tolerates the extension of the members' term of office in the authority. Thus, after that time onwards the authority is not legally constituted. On the contrary, the minority of the judges (three judges) judged that the extension of the term of office was not contrary to the demands of the Constitution and its executive law, irrespective of whether the reasonable time for the members' replacement had already passed. Moreover, in the opinion of two judges of the minority, the subjective difficulties causing the delay of the members' replacement should have also be taken into consideration, that is, the demand for a qualified majority of the four-fifths of the Conference of Presidents, a multi-member organ constituted by the total number of the parliamentary forces.

Interestingly enough, the justificatory basis of the opinion expressed by the minority of the judges of the Council of State finds support in the situation experienced by an MP of the Greek Parliament in his capacity as member of the Conference of Presidents. In 2011, during discussions of the Special Standing Committee on Institutions and Transparency²⁷⁸, the MP Ioannis Tragakis (New Democracy) commented on the issue: "*I participated for fully eight years in the Conference of Presidents and many times there were discussions and discussions and outside the Conference of Presidents regarding the persons that should be appointed to the independent authorities, and unfortunately I found that party entanglements prevented us from staffing the authorities even in cases where people had voluntarily retired*". Therefore, the quest for consensus opens the road for party bargaining.

²⁷⁷ The Decision controlled for the legality of the constitution of the National Council for Radio and Television. Source: The Official Website of the Council of State, available at: <http://www.ste.gr/portal/page/portal/StE/ProsfaresApofaseis#a177>, date of access: 5.5.2011

²⁷⁸ Minutes of the discussions on the draft law of the special legislative drafting committee, under the presidency of Mr. Christos Geraris, entitled "Amendment and completion of the legislation of the constitutional independent authorities" dated September 13, 2011. Source: The Official Website of the Hellenic Parliament, available on video at: <http://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#c7adedc5-353f-46cd-9c71-f856d85885e7>, date of access: 15.05.2012.

b. The Hellenic Data Protection Authority

i. The institutional design regarding the members' professional status, selection criteria, term of office, and functional accumulation status

The legal framework before and after the constitutional revision of 2001

The founding law 2472/1997²⁷⁹ of the Hellenic Data Protection Authority defined the professional status and area of specialty of the members and alternate members of the authority. However, the profile –professional status and qualifications- of half of the members remains vague. Therefore, the authority was composed of a judge of a rank corresponding at least to that of a Conseiller d'État as President, and six members with their alternates as follows: a) A University, full or associate, professor specialized in law; b) A University, full or associate, professor specialized in information technology; c) A University, full or associate, professor; d) Three persons of high standing and experience in the field of the protection of personal data.

The clause regarding the term of office²⁸⁰ provided for staggered terms. However, it was soon amended providing that all the members serve a four-year mandate in the first application of the law²⁸¹. Judges and university professors on active service were permitted to have the status of functional accumulation²⁸². Moreover, the law set out the impediments and incompatibilities of the members of the Authority²⁸³. Pursuant to that article, the authority decides upon such issues on a case by case basis after the hearing of the member.

All relevant clauses of the executive law 3051/2002 of the revised Constitution of 2001, as previously presented in the section regarding the Supreme Council for the Selection of Personnel, also apply to the Hellenic Data Protection Authority. Interestingly enough, par. 5 of article 3 of the executive law 3051/2002 providing that university professors are allowed to exercise duties as members of a University faculty on a part-time basis, would not apply to university professors appointed to the Hellenic Data Protection authority. More specifically, after the publication of the executive law 3051/2002 in the Government Gazette on September 20, 2002, four university professors of the Authority²⁸⁴, the members U4, U5, U7²⁸⁵, and U9, submitted their resignations to the President of the Authority. They protested against the new regulation which prohibited them from exercising their duties as members of

²⁷⁹ Article 16, par. 1 of the law 2472/1997 on the Protection of Individuals with regard to the Processing of Personal Data.

²⁸⁰ Article 16, par. 4 of the law 2472/1997.

²⁸¹ Article 11, par. 3 of law 2683/1998.

²⁸² Article 16 par. 1 and 2.

²⁸³ Article 17 of the law 2472/1997.

²⁸⁴ Their four-year mandate had already expired on November 10, 2001.

²⁸⁵ It should be pointed out that he was President of the Committee constituted by the Ministry of Justice regarding the transposition of the directive 95/46/EC in the Greek legal order on the processing of personal data and the establishment of the Hellenic Data Protection Authority. He also participated in the final elaboration of the draft law 2472/1997. Source: The Explanatory Report of June 17, 1996 that accompanied the draft law “on the Protection of Individuals with regard to the Processing of Personal Data”, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=27da7e14-69cd-49f1-bd4f-742beb40060d, date of access: 14.6.2011.

a university faculty on a full-time basis. They pointed out that they were above all university professors. The President of the authority, the member (J1), disapproved of the new measure which would lead to the replacement of the four of the six members, and would generally hamper the work of the authority. In relation to the resignations, he stated that he could not accept them, as long as another clause of the same law²⁸⁶ provided that until the appointment of new members, they should continue to exercise their duties²⁸⁷.

Almost a month later, the relevant clause of the executive law 3051/2002 of the Constitution regarding the working status of university professors would be bypassed through the amendment of the founding law of the Authority, that is, the law 2472/1997. The amended clause, still in force, provides that “*it is allowed for the members of the Data Protection Authority to exercise duties as members of a University faculty on a full or part-time basis*”. The amendment was incorporated into the law 3068/2002 as article 14 in Chapter C, Other Provisions. It was published in the Government Gazette on November 14, 2002 (vol. A, no 274). Nevertheless, in our opinion, it is questionable whether the legislative procedure for the amendment was legitimate. Contrary to the demands of the Constitution 1975/1986/2001, as prescribed in article 74, par. 4 and 5²⁸⁸, the amendment was not related to the main subject matter of the law 3068/2002 entitled “Compliance of the Administration to Court decisions, promotions of the judges of the regular administrative courts to the rank of the Councillor of State and other provisions”. Moreover, the amendment was neither submitted as such by a Minister or a Deputy, nor contained in the accompanying explanatory report or the text of the draft law itself²⁸⁹. As for the university professors who had submitted their resignations, they continued exercising their duties²⁹⁰. However, their four-year mandate had already expired as early as November 2001.

But why did the article of the executive law 3051/2002 of the Constitution regarding the functional accumulation status of university professors appointed to the

²⁸⁶ The transitory provision par. 2 of article 5 of the law 3051/2002 provided that the mandate of the members, who were not elected according to the provisions in force after the revised constitution of 2001, was considered terminated. These members continued to exercise their duties until the election of new members according to the procedure provided for in par. 2 of article 3 of the said law.

²⁸⁷ Source: the Article of the newspaper “Eleftherotypia” “The President is protesting against the incompatibility that “ate” the four”, October 4, 2002, available at: http://archive.enet.gr/online/online_text/c=112,dt=04.10.2002,id=41755432, date of access: 18.5.2010.

²⁸⁸ “4. A Bill or law proposal for the amendment of a provision of a statute shall not be introduced for debate if the accompanying explanatory report does not contain the full text of the provision to be amended and if the text of the Bill or law proposal does not contain the full text of the new provision as amended.

5. . . A Bill or law proposal containing provisions not related to its main subject matter shall not be introduced for debate. No addition or amendment shall be introduced for debate if it is not related to the main subject matter of the Bill or law proposal. Additions or amendments by Ministers are debated only if they have been submitted at least three days prior to the commencement of the debate in the Plenum, to the Section specified in article 71 or to the competent standing parliamentary committee, as specified by the Standing Orders. The provisions of the two preceding sections shall also apply for additions or amendments submitted by Members of Parliament. Parliament shall resolve in case of contestation”.

²⁸⁹ Explanatory report and draft law of the law 3068/2002, Source: The Official Website of the Hellenic Parliament, available at: <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/s-dikast-eisig.pdf>, date of access: 10.5.2011.

²⁹⁰ Two of them were replaced in 2003, whereas the other two were reappointed.

constitutional independent authorities raise such a protest? The introduced constraint, which only permitted the employment of university professors on a part-time basis in case they were appointed to a constitutional independent authority, actually overturned the previous working status established by article 2, par. 2x of the law 2530/1997. The relevant clause provided that university professors could be members of the independent authorities while keeping the status of full-time employed faculty members²⁹¹. Indeed, employment on a part-time basis had three main drawbacks: i) part-time university professors could not be elected Presidents or Alternate Presidents of Departments, Deans, Rectors, Vice-Rectors; they could not participate in the Senate, and be elected Directors of laboratories and clinics, ii) they could not be remunerated by research programmes financed by the Special Account for Research Grants established in the same or another Higher Education Institution, and iii) their monthly salary was equivalent to one-third (1/3) of the monthly income of a university professor with full-time employment (article 14 of the law 2530/1997)²⁹².

The case previously analysed reflects the reluctance of university professors to lose full-time employment since they enjoyed a privileged functional accumulation status pursuant to article 2, par. 2 of the law 2530/1997 regarding their service status and remuneration, as amended²⁹³. However, such privileged functional accumulation status for university professors does not exist in other jurisdictions. In Italy, Chapter 1, section 153, par. 4 and 5 of the legislative decree no 196/2003 on the Personal Data Protection Code, provides that if the President and members of the Authority Garante per la Protezione dei Dati Personali²⁹⁴ “*are faculty professors at a University, they shall be put on leave of absence with no allowances pursuant to Section 13 of the Presidential Decree no 382 of 11.07.1980 as subsequently amended . . . For the entire term of office, President and members shall not be allowed – under penalty of losing office – to carry out professional or advisory activities, manage or be employed by public or private entities or hold elective offices*”²⁹⁵. Finally, it should be emphasized

²⁹¹ University Professors appointed to independent authorities as Presidents were under suspension from duties.

²⁹² As for the members’ monthly salary, it was equivalent to 40% of the total monthly income of the President of the authority which corresponded to that of the President of the Legal Council of State. The remuneration of the President’s and the members’ alternates was equivalent to 1/3 of the monthly income of the President and the regular members, and were paid to them after confirmation of the President that they had offered their services beyond any participation in the sessions of the authority.

²⁹³ More specifically, they are allowed to i) be paid from funded research programmes or Research Institutes or Centres under the supervision of the General Secretariat for Research and Technology or under the supervision of other Ministries or university research institutes under the supervision or co-supervision of the Ministry of National Education and Religious Affairs, ii) be paid for any work, iii) practice a liberal profession (e.g. lawyers, doctors), iv) be paid for their literary and artistic rights, v) teach at the Greek Open University, public Schools, public Institutes of Professional Training and Centres of Professional Training or provide teaching or managerial work at the Pedagogical Institute and the Regional Training Centres, v) to participate as paid members up to a maximum of two committees and boards of the public and private sector, provided that this participation is specifically stipulated by the law, as well as in the Governing Boards of Higher Educational Institutions and as members of the Academy of Athens, as members or scientific collaborators of the Scientific Council, the Scientific Service and Committees of Parliament. The extra-university activity of the faculty members with full-time employment, as described in points ii and iii, may not exceed a total of eight hours per week, broken down into two days maximum.

²⁹⁴ The Garante per la protezione dei dati personali is a collegiate body composed of four members.

²⁹⁵ The legislative decree no 196/2003 on the Personal Data Protection Code, Source: the Official Website of the Garante per la protezione dei dati personali, available at: <http://www.garanteprivacy.it/garante/document?ID=1219452>, date of access: 16.5.2011

that the Hellenic Quality Assurance Agency for Higher Education in its Annual Report for the year 2009²⁹⁶ noted that “*the intense extra-university activity of faculty members in some university departments creates problems in their operation*”.

ii. Analysis of the empirical data

The empirical data comprise 39 members and their alternates, Presidents and Alternate-Presidents included, appointed during the period 1997 to December 31st, 2010. Table 6 shows the professional status, that is, the main occupation, of the 39 members. Once more the overwhelming majority of them come from the public sector (85%, 33 of 39), whereas university professors and judges represent 82% of those appointed during the period under research. As for gender distribution, men represent 92% (36 of 39) of the total number of members, whereas women reach 8% (3 of 39).

TABLE 6

Professional Status of the members and alternate members of the Hellenic Data Protection Authority (1997-31.12.2010)

	Judges	University Professors	Free-lance Professionals	Lawyer with a salary mandate in the public sector
% Members’ Professional Status	23% (9 of 39)	59% (23 of 39)	15% (6 of 39)	3% (1 of 39)

Source: The Government Gazette and Annual Reports

All the selected judges were retired from service with the exception of two judges: the first members of the authority appointed as President and Alternate President. The Constitution 1975/1986 in force permitted the assignment of such duties to judges on active service. The President was suspended from his judicial duties as Vice-President of the Supreme Court of Civil and Penal Law, whereas his alternate performed his duties in the authority on a part-time basis parallel with the exercise of his judicial duties as Vice-President of the Council of State. It is noteworthy that 4 of 9 judges had been appointed President and Vice-Presidents of the Supreme Courts by the executive. The judges’ ranks and titles, and the courts, where they had previously served, are as follows: 1 President of the Council of State, 2 Vice-Presidents of the Supreme Court of Civil and Penal Law, 1 Vice-President of the Council of State, 1 Councillor of State, 3 judges of the Supreme Court of Civil and Penal Law, and 1 associate judge of the Court of Audit. The ex-President of the Council of State was appointed President of the authority in 2008, whereas the other ex-Vice-President of the Supreme Court of Civil and Penal Law was appointed President in 2003.

Contrary to the case of the Supreme Council for the Selection of Personnel, university professors are strongly represented in the board of the authority during the period under research (59%, 23 of 39). Their area of specialty is as follows: 12 Law Professors, 7 Informatics Professors, 2 Political Science Professors, 1 History Professor, and 1 Professor of Mathematics. The professional profile of the free-lance professionals is as follows: 5 lawyers, and 1 civil engineer. Finally, the lawyer with a salary mandate was a PhD holder specialised in Social Law.

²⁹⁶ The Hellenic Quality Assurance Agency for Higher Education, Annual Report for the year 2009, http://www.adip.gr/data1/HQAA_REPORT_2009.pdf, date of access: 17.6.2011.

Reappointing part of the same members/alternate members after the constitutional revision of 2001 was also a common practice in the case of the Hellenic Data Protection Authority. This preference could be explained not only as an indication of the need to appoint experienced members, but also as a sign of trust to certain persons. Thus, six members who had served during the period 1997-2003 were reappointed after the constitutional revision of 2001, whereas their tenure ranges from 6 to 10.2 years as shown in Table 7.

TABLE 7
Hellenic Data Protection Authority – Reappointments – Duration of term

Members	Period	Years
FP12	1997-2007	10.2
U4, U9	1997-2005	8.1
U17, U18	2002-31.12.2010*	8.1
J2	1997-2003	6

* Their tenure had already expired on October 10, 2009

Source: Government Gazette and Annual Reports

Premature departure from office was quite often, whereas the case of the C4I Cameras triggered a series of resignations in 2007. The President (J19), the Alternate President (J23), three members (FP12, U17, U31) and two alternate members (U21, FP24) resigned in protest against the decision of the Greek Police, which was supported by an opinion of the Public Prosecutor of the Supreme Court of Civil and Penal Law, to ignore the decisions of the authority²⁹⁷ and use surveillance cameras to film the demonstration and protest march to commemorate the Athens Polytechnic uprising on November 17, 2007. The mandates of six of the seven members who submitted their resignations on November 19 and 20, 2007²⁹⁸ were about to expire. Interestingly enough, two of seven resigned members (J23, U21) were reappointed on March 20, 2008, whereas one member (U17) proceeded to the revocation of his resignation²⁹⁹, and remained in the authority while his term of office would end on October 13, 2009.

²⁹⁷ On November 11, 2006 the Minister of Public Order and the Minister of Finance filed an appeal at the Council of State against the decision 57/2006 of the Hellenic Data Protection Authority. The authority imposed a fine of 3,000 Euros to the Greek Police for the violation of the terms set out in its decision 58/2005 which provided that the new large high-tech CCTV system in Athens could only be used to monitor traffic. Indeed, the decision put many restrictions on the use of that system which consisted of cameras, microphones, and video analysis software. Moreover, it forbade the use of the system for the collection and processing of data in order to constitute offences that were not related to the regulation of traffic. The Council of State in Plenary Session rejected the request for annulment submitted by the Ministry of Public Order in 2009 (Decision 1662/2009 of the Council of State in Plenum, Source: Legal Information Bank of the Athens Bar Association, available at: <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 11.5.2011.

²⁹⁸ Letters of resignation of the members dated November 19 and 20, November 2007. Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7, date of access: 11.5.2011.

²⁹⁹ Source: in.gr, Internet portal of the Lambrakis Journalistic Organisation, article entitled “The Board of the Hellenic Data Protection Authority”, available at: <http://www.in.gr/news/print.asp?IngEntityID=881344&IngDtrID=244>, date of access: 24.5.2010

In general, 13 of 38 members³⁰⁰, that is, 34%, resigned. Their main occupation is as follows: two free-lance professionals (lawyers), seven university professors, and four judges. Resignations, with the exception of the Cameras Case, have often been for professional reasons since many members took other attractive posts right after their resignation: the President J1 was appointed as the first Inspector General of Public Administration; the alternate President (J2) was appointed member of the Board for the Management and Reformation of the river Kifissos of Attica and its torrents; the regular member U3 became Minister of Justice in 2000 under the PASOK Government; the alternate member U8 was selected as the first Greek Ombudsman in 1997; the regular member U20 was appointed Secretary General at the Ministry of Development under the New Democracy Government in 2004; the alternate member U32 was appointed member of the Hellenic Telecommunications and Post Commission in 2009. The President (J33) submitted his resignation on February 8, 2011 for personal reasons³⁰¹. Nevertheless, he had one more year to serve.

The average length of tenure is high (4.7 years), and exceeds that of a minister or a government despite the fact that the relevant laws before and after the constitutional revision provided for a four-year mandate. The reappointment of many members, as well as the long delays in the members' replacement despite the expiry of their mandate may explain the high score. More specifically, the first constitution of the board was published in the Government Gazette in August and September 1997. Consequently, the members' mandate should have ended four years later, that is, August and September 2001, respectively. Instead, they were replaced in February, 2003, that is, 1.3 years after the expiry of their term of office. It should also be reminded that the law 2472/1997 contained no clause that the members' "term of office is *ipso jure* extended until the appointment of new members" as is the case with the executive law 3051/2002 of the Constitution. The situation probably reveals the reluctance of the political decision makers to proceed to new appointments, thus employing tactics to gain time due to the new Constitution on the constitutional independent authorities which took effect in April 2001. The executive law 3051/2002 of the Constitution on the constitutional independent authorities was published in the Government Gazette on September 20, 2002. Contrary to the constitutional demand, a transitional provision of this law³⁰² further permitted the extension of the mandate of those already appointed in the authority until the election of new members following the new selection mechanism.

Another similar case is that of five members (U17, U18, U29, FP37, and U38) whose term of office ended on October 13, 2009, and they had still not been replaced by December 31, 2010. Moreover, the member U32, who resigned on 2.9.2009 after being appointed to the board of the Hellenic Telecommunications and Post Commission, had not been equally replaced by December 31, 2010. If we interpret all these cases within the context of the justificatory basis of the Decision 1098/2011 of the Council of State, it is rather evident that the authority was not legally constituted. Such practices, that is, long delays in replacements followed by the political decision-

³⁰⁰ The three members who submitted their resignations in the Cameras Case, and were finally reappointed or revoked their resignation are not included.

³⁰¹ Source: Newspaper Express, Daily Economic Newspaper, available at: http://www.express.gr/news/ellada/466945oz_20110510466945.php3, date of access: 11.5.2011.

³⁰² See analysis on article 3, par. 2 of the executive law 3051/2002 of the Constitution in the section on the Supreme Council for the Selection of Personnel.

makers, either through the institutional design or in practice, jeopardize the proper function, and the decisions of any authority. Thus, an authority, due to its illegal constitution, may become vulnerable to appeals against undesirable decisions and heavy fines³⁰³.

c. The Greek Ombudsman

i. The institutional design regarding the selection criteria for the Ombudsman and Deputy Ombudsmen, term of office, and functional accumulation status

- *The legal framework before the constitutional revision of 2001*

The formulation of the clause regarding the criteria over the appointees' qualifications as prescribed in the founding law 2477/1997³⁰⁴ was abstract in the sense that these criteria were set at a general level. Therefore, "individuals of acknowledged prestige, who had superior educational qualifications and enjoyed broad social acceptance" would be selected for the posts. The lack of clarity of the clause over the qualifications, and the exact meaning of the term "social acceptance" had already been criticised by members of Parliament during the discussions of the draft law³⁰⁵.

The initial legal framework regulating the issues of the mandate, and the functional accumulation status was strict and absolute: no renewal of the five-year term of office, no other professional activity in the public or private sector during the mandate. Moreover, the premature termination of the Ombudsman's term of office, for any reason, entailed ipso jure the termination of office of the Deputy Ombudsmen. However, this severe regulation regarding the renewal of the mandate and the functional accumulation status will be partly overturned after the constitutional revision of 2001.

- *The legal framework after the constitutional revision of 2001*

Contrary to the amendment regarding the privileged functional accumulation status of university professors who are allowed to exercise duties as members of a University faculty on a full-time basis when appointed to the board of the Hellenic Data Protection Authority, the provisions of the new law 3094/2003 on the Greek Ombudsman remained faithful to the demands of the executive law 3051/2002. Therefore, it only permitted part-time university employment for the Deputy

³⁰³ A private Greek channel appealed to the Council of State, and managed to annul the fine of 15,000 Euros imposed by the National Council for Radio and Television. The Court judged that the constitution of the organ was illegitimate by the time it took the relevant decision (Council of State, Division D, Decision 1098/2011).

³⁰⁴ Article 2, par. 1 of the law 2477/1997.

³⁰⁵ See the speeches of the MPs Leonidas Avdis (Communist Party of Greece), Styliani Alfieri (the Coalition), and Georgios Tsafoulas (Democratic Social Movement). Minutes of Parliament, 9th Period (of Presidential Parliamentary Democracy), First Assembly, Session 102, discussion and debate in particulars, March 26, 1997, available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/20_03_97.pdf and http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/26_03_97.pdf, date of access: 02.08.2010.

Ombudsmen. In addition, the exercise of any other public office is suspended, as well as the exercise of any other duties in any position in the public sector³⁰⁶.

Regarding their mandate, the Ombudsman and the Deputy Ombudsmen are appointed for a four-year once-renewable term. However, the regulation of the issue of the replacement of the Deputy Ombudsmen in case the Ombudsman's term of office is terminated for whatever reason is of special interest. The relevant clause provided for in the previous law was not abolished. The Deputy Ombudsmen shall continue to perform their duties until the appointment of the new Deputy Ombudsmen, and in any case not later than three months following the appointment of the new Ombudsman³⁰⁷. Thus, the expiry of the Ombudsman's term of office for whatever reason directly impacts on the Deputy Ombudsmen's mandate which is equally terminated. It is obvious from the above mentioned clause that their replacement does not fall under the ambit of the executive law 3051/2002 of the Constitution. The Deputy Ombudsmen are not considered members of a collective body (authority) since the law 3051/2002³⁰⁸ classifies the Greek Ombudsman as a single-headed ("monocratic") authority. As a result, the Deputy Ombudsmen are appointed by decision of the Minister of the Interior, Public Administration and Decentralization on the recommendation of the Ombudsman (art. 2 par. 1).

ii. Analysis of the empirical data

The empirical data comprise 2 Ombudsmen, and 13 Deputy Ombudspersons, appointed during the period 1997 to December 31st, 2010.

Table 8 shows the professional status, that is, the principal occupation, of the 2 Ombudsmen and the 13 Deputy Ombudsmen. Not surprisingly, the overwhelming majority of them come from the public sector (80%, 12 of 15), whereas high-ranking civil servants represent 40% (6 of 15) of those appointed during the period 1997 to December 31st, 2010. University professors represent 33% (5 of 15) of those appointed, that is, 2 Ombudsmen and three Deputy Ombudsmen. As for gender distribution, contrary to all the other constitutional independent authorities under research, there is almost equal sex representation in the authority. Indeed, men represent 47% (7 of 15) of the total number of Ombudsmen and Deputy Ombudsmen, whereas women slightly exceed them by 53% (8 of 15).

TABLE 8
Professional Status of the Ombudsmen and Deputy Ombudspersons (1997-31.12.2010)

	High-ranking Civil Servants	University Professors	Free-lance Professionals	Lawyer with a salary mandate in the public sector
% Members'	40% (6 of 15)	33% (5 of 15)	7% (3 of 15)	7% (1 of 15)
Professional Status				

Source: The Government Gazette and Annual Reports

³⁰⁶ Article 2, par. 4 of the law 3094/2003, as amended by article 284 par. 5 of the law 3852/2010.

³⁰⁷ Article 2 par. 3 of the law 3094/2003.

³⁰⁸ Article 1, par. 2 of the law 3051/2002.

The rank, public services of provenance, and the level of education of the high-ranking civil servants who were appointed as Deputy Ombudspersons are shown in Table 9.

TABLE 9

The rank, public services of provenance, and the level of education of the high-ranking civil servants appointed as Deputy Ombudspersons

Codified Case	Rank or Position	Level of Education	Public Service of provenance
CS5	Director General	Postgraduate Studies in Administrative Law	Ministry of the Interior
CS4	Director of City Planning	PhD in City Planning	The Greek National Mortgage Bank
CS11	Special Scientific Staff	Postgraduate Degree (DEA and LLM in Public Law)	The Greek Ombudsman
CS10	Special Scientific Staff	Postgraduate Degree in Legal Theory. He obtained his PhD in 2006 (He was appointed Deputy Ombudsman in 2003)	The Greek Ombudsman
CS12	Scientific Collaborator	PhD in Labor Law	The Economic and Social Committee
CS15	Executive Officer	Postgraduate Degree in Urban and Regional Planning	The Directorate of the Technical Services of the National Bank of Greece

Source: The Government Gazette and Annual Reports

The University Professors' area of specialty is as follows: 2 Political Scientists, one of them was appointed Ombudsman, 1 Constitutionalist, who was appointed Ombudsman, 1 Criminologist, and 1 specialized in Economics of Labor and Social Policy. All the free-lance professionals were lawyers. Two of them are PhD holders, and one has a postgraduate degree. Finally, the lawyer with a salary mandate is also a PhD holder.

The reappointment of the Ombudsman or Deputy Ombudsmen after the constitutional revision of 2001 was rare. Only one Deputy Ombudsman was reappointed to the Authority after the constitutional revision of 2001, and assumed the post of the Greek Ombudsman (U2). The mandate of the other Deputy Ombudsmen was not renewed. Premature departure from office is quite often compared with the small number of the persons involved in our analysis. More specifically, one third of them resigned for more attractive posts, which, in some cases (3 of 5), had a political character. Their main occupation is as follows: 1 university professor (U2), 1 lawyer with a salary mandate (LM6), 1 free-lance professional, and 2 members from the special scientific personnel of the Ombudsman. The Greek Ombudsman (U2), submitted his resignation on September 24, 2010 to run for Mayor of Athens in the municipal and regional elections of 2010. He was elected Mayor of Athens on November 14, 2010³⁰⁹. The Deputy Ombudswomen, LM6 and FP8, followed an academic career (university

³⁰⁹ He was supported by four political parties: the Democratic Left, the Panhellenic Socialist Movement (PASOK), Action, and the Ecologists-Greens, and was elected with 51,95% of the votes (Registered voters: 488.150, voted: 167.104 (34,23%), invalid votes: 5,44%, blank votes: 5,67%. Votes for the elected Mayor: 77.165 Source: Ministry of the Interior, Decentralisation and Electronic Governance, available at: [http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#{"page":"level","params":{"level":"dhm_d","id":9186}}](http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#{), date of access: 27.12.2010

professors). The Deputy Ombudsman, CS10, was appointed Secretary General for Migration Policy at the Ministry of the Interior under the PASOK Government in 2009, whereas the Deputy Ombudswoman, CS11, was appointed Director at the Political Bureau of the Minister of Finance under the PASOK Government in 2009.

The average length of tenure is high (4.8) which may be attributed to the fact that the founding law of the Greek Ombudsman provided for a five-year mandate. Moreover, one person (U2) served 12 years in total³¹⁰, whereas the mandates of four Deputy Ombudsmen and Ombudswomen were renewed once after their initial appointment³¹¹. However, the resignation of the Greek Ombudsman in 2010 had an impact on how the length of tenure should be estimated from that period onwards. Thus, two parameters were taken into consideration: i) the deadline of the period under research, that is, December 31, 2010, and ii) the replacement of the Ombudsman by a Deputy Ombudswoman (U9). As for the Ombudsman's replacement, the Deputy Ombudswoman (U9) assumed the duties of Alternate Ombudswoman after the announcement of the Ombudsman's resignation³¹² to run for Mayor of Athens. She issued an announcement, dated September 15, 2010, stating that the resigned Ombudsman "*is legally replaced by the Deputy Ombudswoman, Mrs . . .*"³¹³. However, in our opinion, the procedure of the replacement was irregular pursuant to article 2 of the Law 3094/2003 which reads as follows: "*The Ombudsman may be replaced when absent or temporarily unable to perform his duties for whatever reason. The Ombudsman shall appoint one of the Deputy Ombudsmen as his alternate*". However, in this case the Ombudsman resigned. Therefore, a new Ombudsman should have been selected by the Conference of Presidents, whereas the Deputy Ombudsmen should continue to perform their duties until the appointment of the new Deputy Ombudsmen, and, in any case, not later than three months following the appointment of the new Ombudsman (Article 2, par. 3, verse 2 of the law 3094/2003). Consequently, in order to estimate the Deputy Ombudsmen's³¹⁴ length of tenure, we considered January 13, 2011³¹⁵, as the end of their mandate³¹⁶. We are fully aware that the average length of tenure does not correspond to what actually happened³¹⁷, but rather to what should have happened. Interestingly enough, in our

³¹⁰ He served five years as Deputy Ombudsman (1998-2003), and seven years as Ombudsman (2003-2010).

³¹¹ The following Deputy Ombudspersons served in total: FP7, U9: 7.5 years, CS10: 6.4 years, and CS11: 4.4 years. It should also be noted that two Deputy Ombudspersons submitted their resignations in 2009 before the expiration of their mandate. In other words, the average length of tenure would have been higher.

³¹² He officially submitted his resignation to the Speaker of the Hellenic Parliament on September 24, 2010. Source: the Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/pdf_01/8769_1_24-9-10_paraithsh_kamini_fin.pdf, date of access: 12.5.2011. The Ombudsman's resignation was published in the Government Gazette on October 13, 2010 (Government Gazette, vol. YODD, no 333, 13.10.2010).

³¹³ Source: the Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/pdf_01/8748_1_DELTIO_TYPOU_DIEYKRINISTIKO.pdf, date of access: 27.12.2010.

³¹⁴ The Deputy Ombudsmen and Ombudswomen: FP7, U9, U13, U14, CS15.

³¹⁵ The date corresponds to the expiry of three-months after the publication of the Ombudsman's resignation in the Government Gazette, that is, October 13, 2010.

³¹⁶ The date corresponds to the expiry of the three-month period corresponding to the maximum period for the extension of the Deputy Ombudsmen's mandate after the appointment of the new Ombudsman.

³¹⁷ In May 2011, U9 was proposed and finally selected as the Greek Ombudswoman by the Conference of Presidents. She would serve for the remainder of the mandate of the resigned Ombudsman, that is,

opinion, that irregularity also affected the legality of the first constitution of the Special Council for the Selection of the Heads of public services established by the law 3839/2010³¹⁸. U9 was finally selected as the Greek Ombudswoman by the Conference of Presidents on May 19, 2011.

d. The Hellenic Authority for Communication, Security, and Privacy

i. The institutional design regarding the members' selection criteria, term of office, and functional accumulation status

The founding law 3115/2003³¹⁹ provides for the selection criteria, and the area of specialty of the members and alternate members of the authority. The persons selected shall enjoy broad social acceptance, and be distinguished for their scientific expertise and professional competence in the field of law or the technical field of communications. During discussions in Parliament on the relevant draft law, the term “broad social acceptance” was considered as general, and abstract³²⁰. On the other hand, the Minister of Transport and Communications, Christos Verelis (PASOK), who introduced the draft law, stated that the clause on the selection criteria could not be further specified. He explained that the government would be accused of intending to describe the qualifications of certain persons they had in mind for the appointments through the formulation of the clause. Furthermore, he claimed that detailed selection criteria prescribed in the clause would be extremely restrictive for the Conference of Presidents³²¹.

The clause regarding the term of office³²² is consistent with the relevant clause of the executive law 3051/2002 of the Constitution on the constitutional independent

until 20.2.2012. Source: The Official Website of the Greek Ombudsman, available at: <http://new.synigoros.gr/?i=stp.el.synigoros>, date of access: 14.6.2011

³¹⁸ Article 2 of the said law provides that a Deputy Ombudsman with his alternate participate in the organ on the recommendation of the Ombudsman. The Ministerial Decision regarding the appointment of the members of that organ was issued on May 4, 2011. The Deputy Ombudswoman for Gender Equality (CS12), and the Deputy Ombudsman for Human Rights (U14) were respectively appointed member and alternate member of the organ. Nevertheless, all the procedures for the selection of the new Ombudsman, and the appointment of new Deputy Ombudsmen were still pending. Consequently, in our opinion, the constitution of the Special Council for the Selection of the Heads of public services was irregular since the term of office of the Deputy Ombudswoman and the Deputy Ombudsman had already expired. Finally, the Scientific Report of Parliament on the draft law “*System for the selection of the Heads of organisational units under objective and merit criteria-Establishment of a Special Council for the Selection of Heads in public services and other provisions*” considered that the Ombudsman and the Deputy Ombudsperson could not be members of the said Council since they could not exercise decisive competences, as was the case with the Special Council for the Selection of Heads in public services. In the Rapporteur’s view, the relevant legislation regarding the competences of the institution of the Ombudsman provides only for mediation, control, and advisory competences.

³¹⁹ Article 2, par. 3 of the law 3115/2003.

³²⁰ See the speech of the MP of the Communist Party of Greece, Angelos Tzekis. Minutes of Parliament, 10th Period (of Presidential Parliamentary Democracy), Third Assembly, Session 62, discussion and debate in particulars, January 29, 2003, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN20030129.pdf>, date of access: 14.5.2011

³²¹ Minutes of Parliament, 10th Period (of Presidential Parliamentary Democracy), Third Assembly, Session 61, discussion and debate in principal, p. 2394, January 28, 2003, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN20030128.pdf>, available at: 14.5.2011

³²² , Article 2, par. 4 of the law 3115/2003.

authorities. Thus, it provides for a four-year mandate with staggered terms in the first application of the law. As for the functional accumulation status³²³, no other professional activity in the public or private sector is permitted during the mandate. The members of the Authority, with the exception of the President who works under conditions of full-time and exclusive employment, may, however, exercise duties as members of a University faculty on a part-time basis.

Interestingly enough, the Member of Parliament, Kyriakos Spyriounis (PASOK) expressed his complete disagreement with the university professors' functional accumulation status during the discussions of the relevant draft law in Parliament³²⁴. He pointed out that such exceptions constituted a continuous challenge towards other professional categories. He proposed that university professors should also work under conditions of full-time and exclusive employment, and thus be devoted to the sacred mission of the authority. Moreover, he stated that special remuneration could be foreseen for that purpose.

However, the relevant clause on the university professors' functional accumulation status would be amended in a few months time as was the case with the Hellenic Data Protection Authority. The amendment³²⁵ was incorporated into the law 3213/2003 as article 11, untitled. It was published in the Government Gazette on December 31, 2003 (vol. A, no 309). Nevertheless, in our opinion, it is questionable whether the legislative procedure for the amendment was legitimate. Contrary to the demands of the Constitution 1975/1986/2001, as prescribed in article 74, par. 4 and 5, the amendment was not related to the main subject matter of the law 3213/2003 entitled "Declaration and Control of Assets of Members of Parliament, Public Officials and Employees, Mass Media Owners and other categories of persons". This time, the text of the amendment was submitted and signed by the competent Ministers³²⁶ accompanied by the special report of the General Accounting Office³²⁷.

ii. Analysis of the empirical data

The empirical data comprise 20 members with their alternates appointed during the period 2003 to December 31st, 2010.

Table 10 shows the professional status, that is, the principal occupation, of the 20 members. The overwhelming majority come from the public sector (75%, 15 of 20), whereas university professors represent 45% (9 of 20) of those appointed during the period 2003 to December 31st, 2010. Free-lance professionals represent 25% (5 of 20)

³²³ Article 4, par. 3 of the law 3115/2003.

³²⁴ Minutes of Parliament, 10th Period (of Presidential Parliamentary Democracy), Third Assembly, Session 62, discussion and debate in particulars, p. 2417, January 29, 2003, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN20030129.pdf>, date of access: 14.5.2011

³²⁵ The amended clause, as prescribed in article 11 of the law 3213/2002, provides that "... it is allowed [for the members of the Authority for Communication, Security, and Privacy] to exercise duties as members of a University faculty on a full or part-time basis".

³²⁶ Source: The official website of the Hellenic Parliament, Amendment on the draft law, available at: <http://www.hellenicparliament.gr/UserFiles/bbb19498-1ec8-431f-82e6-023bb91713a9/d-property-1.pdf>, date of access: 17.5.2011.

³²⁷ If a University Professor was elected as member of the authority, and opted for the full-time employment status, he was also entitled to receive full payment from the university.

of those appointed. As for gender distribution, the overwhelming majority of the appointed members are men, that is, 95% (19 of 20), whereas women represent 5% (1 of 20).

TABLE 10

Professional Status of the members and alternate members of the Authority for Communication, Security, and Privacy (2003-31.12.2010)

	University Professors	Free-lance Professionals	High-ranking Civil Servants	Judges
%Members' Professional Status	45% (9 of 20)	25% (5 of 20)	20% (4 of 20)	10% (2 of 20)

Source: The Government Gazette and Annual Reports

The university professors' area of specialty is as follows: 3 Professors of Electrical and Computer Engineering, and 6 Professors of Informatics. The professional profile of the free-lance professionals is as follows: 4 lawyers, and 1 Mechanical-Electrical Engineer, appointed as President in 2003, and reappointed in 2008. The category of high-ranking civil servants is represented by former executives from the broader public sector, that is, the Greek Telecommunications Organisation³²⁸. Their rank is as follows: 1 alternate Director General, and 4 Directors. Finally, judges are poorly represented (2 of 20). They were both retired from service, and their rank is as follows: 1 Judge of the Hellenic Supreme Court of Civil and Penal Law, 1 Councillor of the Court of Audit.

Premature departure from office is not rare. There is no indication of formal dismissal, whereas resignations may be attributed either to personal reasons or the appointment to new, more attractive posts with a political character (2 of 5). More specifically, 25% of the members resigned (5 of 20), whereas their principal occupation is as follows: 2 university professors (U9, U16), 2 free-lance professionals (FP3, FP18), and 1 judge (J5). The university professor U16 was appointed Secretary General at the Ministry of Infrastructures, Transports, and Networks under the Pasok Government in 2009. The free-lance professional FP18 was appointed Director at the Political Bureau of the Caretaker Minister of the Interior, S. Flogaitis before the national elections of 2009, whereas his mandate was ipso jure terminated on October 6, 2009. He was immediately appointed as Head of the Bureau for the Support of Good Legislation at the General Secretariat of the Government by the Prime Minister, Georgios Papandreou. However, the Prime Minister proceeded to the revocation of his appointment in June 2010.

The average length of tenure is high (5.1) which may be attributed to the fact that the mandates of seven members (FP1, J4, U6, U8, FP10, FP11, CS12, CS13) were renewed once after their initial appointment in 2003. Their tenure ranges from 7.7 (J4, U8, FP10, FP11) to 8.8 years (FP1, U6, CS12, CS13), a remarkably high score.

³²⁸ The procedure of the privatization of the Greek Telecommunications Organisation started in 1996, whereas, in 2001, after the liberalisation of the telecommunications market in Greece (Law 2867/2000) private capital possessed the majority shares of the enterprise (OECD, 2002). The State retains 20% of the shares, a blocking minority shareholding. However, the privatization scheme of 2011 foresees the selling of another 10% of the state owned shares (Source: the Official Website of Newspaper Kathimerini, Privatizations: the spearhead, Article by Sotiris Nikas, available at: http://news.kathimerini.gr/4dcgi/_w_articles_politics_3_17/04/2011_439345, date of access: 17.4.2011.

However, the constitution of the authority has been irregular on many occasions. More specifically, in the first constitution of the authority, the replacement or the renewal of the mandate of 3 members (U8, J4, FP10) with their alternates (U9, J5, FP11), who had a two-year mandate which expired in 2005 according to the system of staggered terms, never took place. Instead, their term of office seems to have been silently extended, and finally renewed in 2007 for four years. Another case was that of the replacement of the alternate vice-president (FP3) who submitted his resignation on April 21, 2004. He was finally replaced in 2007, despite the fact that the President of the authority had notified the Speaker of Parliament of the issue multiple times³²⁹. Finally, the resigned members (U16 and FP18) were replaced almost a year after their resignation³³⁰.

4. The Members' Involvement in Public Life Index: variations and intensity of involvement, and functional accumulation status

a. The Supreme Council for the Selection of Personnel

i) Judges

Retired judges (21 of 43 members for whom we have evidence), despite the fact that they represent the overwhelming majority of the members of the Supreme Council for the Selection of Personnel, are mainly institutionally involved in public life. This is not surprising since judges, when on active service, are subjected to constitutional constraints regarding the exercise of other public functions, and duties. However, we should also point out that the technical limitations of the words-key search system of the Government Gazette uploaded on the website of the National Printing Office dissuaded us from extending our research to the period 1980-1991.

Thus, according to our findings, the judges' institutional involvement consists of their participation in i) special courts and councils provided for in the Constitution³³¹, ii) various committees and councils exclusively or partly constituted by judges as provided for in legislation, iii) the National Commission for Human Rights representing the respective Supreme Courts. Moreover, a number of judges were appointed as members of the permanent legislative drafting committee of the Ministry of Justice (J15, J23, J40), as members of working groups (J45, J53), as members of the Central Examination Committee of the National School of Public Administration for the entrance competition (J45, J47), and as Alternate Vice-President of the Permanent Expert Committee operating at the General Directorate for Public Procurement of the General Secretariat of Commerce (J54). Nevertheless, we should also remind that 10 of 27 judges had the rank of Vice-President of the Supreme

³²⁹ Information available at the Annual Report of 2006

³³⁰ According to article 13 par. 5 of the Code of Administrative Procedure (law 2690/1999), a collective body may extend its function only for three months, in case some of its members disappear, or leave for whatever reason, or lose the capacity according to which they were appointed to the board, if, when in session, the rest of the members form a quorum.

³³¹ They may become members of Special Courts and Councils related to judges' responsibility and judges' disciplinary issues pursuant to articles 99 and 91 of the Constitution (Special Court for Mistrial, and Supreme Disciplinary Council). They may also become members of the Supreme Special Court pursuant to article 100 of the Constitution. All the members of these Courts are chosen by lot with the exception of their Presidents who participate ex officio, namely the Presidents of the Supreme Courts, as appropriate.

Courts, and thus were promoted by the executive. Under this perspective, their institutional involvement is relevant.

Only two judges participate in the financial dimension: one was appointed as President of the Revisionary Council for the Property of Forests (J12), whereas the other was appointed as President of the Supervisory Council of the Body of Certified Appraisers (J2). Four judges are financially and institutionally involved. More specifically, after his retirement from the Supreme Council for the Selection of Personnel, J5 was appointed President of the National Council for Radio and Television, whereas J19 was a member of the Hellenic Competition Commission before assuming his duties as Councillor of the Supreme Council for the Selection of Personnel. J23 was appointed President of the Hellenic Copyright Organisation but soon afterwards he submitted his resignation after his selection as Councillor of the Supreme Council for the Selection of Personnel. J27, an ex judge, had served as legal advisor at the European Commission³³², whereas he was appointed Vice-President of the Health Procurement Committee under the PASOK government in 2010. Interestingly enough, he submitted his resignation from the position of the Vice-President after five months, and was reappointed Councillor of the Supreme Council for the Selection of Personnel in 2011. Finally, the judges' involvement in public life is not broad³³³. Indeed, they do not participate in more than two dimensions of the index (I, F, I+IF, I+F), whereas only 5 judges of 22 are involved in a combination of two dimensions. The intensity of the judges' involvement in public life is low³³⁴.

We have the cases of two judges with a functional accumulation status during their term of office³³⁵. J2, Vice-President of the Supreme Council for the Selection of Personnel was appointed President of the Supervisory Council of the Body of Certified Appraisers on 14.4.1994 (term of office: 14.4.1994-21.10.1994), shortly after his appointment to the Supreme Council for the Selection of Personnel (5.4.1994). However, he submitted a declaration of abdication published in the Government Gazette on 7.9.1994. J15 was appointed member of the permanent legislative drafting committee of the Ministry of Justice while he was Councillor of the Authority.

ii) University Professors

University Professors are weakly represented in the authority. Nevertheless, three of five University Professors (U6, U7, and U8) present a broad involvement in public life as shown by the combinations of the dimensions of the index³³⁶. Indeed, their career paths are rich. U7 and U8 were politically involved. U7 was elected Member of the European Parliament with the party of PASOK in 1999. U8 was appointed

³³² Since January 16, 1983, he was a Permanent Employee at the Commission of the European Union – Legal Adviser, Grade A3 post. Source: 61998A0086 Judgement of the Court of First Instance (Second Chamber) of January 26, 2000, Dimitrios Gouloussis v Commission of the European Communities, Officials, Promotions-Grade A 2 post-Action for Annulment, Case T-86/98 Source: EUR-Lex, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61998A0086:EL:HTML>, date of access: 29.11.2010

³³³ See Appendix 8, table 1.

³³⁴ See Appendix 8, table 2.

³³⁵ See Appendix 8, table 3.

³³⁶ See Appendix 8, table 1.

President of the Central Legislative Drafting Committee³³⁷ in 1993. However, he submitted his resignation shortly before his appointment as Councillor in 1994. Their institutional involvement comprises appointments to legislative drafting committees (U7, U8), and various working groups (U8(2), U21). U6 was appointed President of the National Consultative Council for Research, whereas U7 was nominated judge for the European Court of Justice by the Greek Government in 1999³³⁸. U7 and U8 served as Ministers at the Grivas Caretaker Government³³⁹ in 1989, whereas U8 was appointed Minister of the Interior to the Simitis' Caretaker Government before the National Elections of 1996. As for their institutional and financial involvement, U6 was appointed President of the Hellenic Mapping and Cadastral Organisation (OKXE), U7 was twice appointed President of the Management Board of the Organisation for Mediation and Arbitration in 1994 and 1999³⁴⁰, and Vice-President of the Governing Board of the University of Thessaly. U8 was appointed President of the Economic and Social Committee in 1998³⁴¹, and member of the Governing Board of the University of Crete where he served during 1983-1987. Finally, his scientific involvement is also remarkable since he was twice appointed President of the Management Board of the Centre for International and European Economic Law (1997-2001 and 2007-2009), and as member of the Scientific Council of the Hellenic Centre for European Studies -EKEM(1989-1991).

The intensity of their involvement in public life is higher than that of judges since only one university professor pertains to the low scale, whereas two university professors pertain to the medium scale, and one to the high scale (14 times)³⁴².

Three University Professors (U6, U7, U8) fulfil the requirements for the functional accumulation status as set forth in our definition³⁴³. In other words, at a certain period, all three university professors are on active service, serve as Councillors in the authority, and are simultaneously appointed to other posts³⁴⁴. We should remind that they may be also privately employed (e.g. exercise a liberal profession such as lawyer,

³³⁷ The Central Legislative Drafting Committee (KENE) is a governmental service since it pertains to the group of public services which are under the direct jurisdiction of the Prime Minister (Law 1558/1985).

³³⁸ His mandate was renewed in 2006 and 2009. He has been President of the European Court of Justice since 2003, as he was elected twice by the judges of the Court. Regarding the appointment of judges and advocates general in the European Courts, the national governments simply nominated their candidates, whereas the representatives of the governments of the member states appointed them. However, the new procedure laid down in article 255 TFEU provides that "*A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 253 and 254. The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament.* Official Journal 115 , 09/05/2008 P. 0159 – 0159, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E255:EN:HTML>, date of access: 26.5.2011

³³⁹ The term is used to describe the government that operates in the interim period between the normal dissolution of Parliament for the purpose of holding an election and the formation of a new government after the election results are known.

³⁴⁰ He submitted his resignation after his election as Member of the European Parliament.

³⁴¹ He submitted his resignation in 1999 after being appointed to the European Court of Justice.

³⁴² See Appendix 8, table 2.

³⁴³ See Appendix 8, table 3.

³⁴⁴ See Appendix 8, table 3, column 2.

engineer etc). More specifically, U6³⁴⁵ has a scientific involvement since he was appointed: i) President of the Geodetic and Geophysical Committee of the State (1996-1998), ii) President of the Scientific Council of the National Observatory of Athens with a three-year mandate), and iii) member of the Management Board of the Centre for Educational Research with a three year mandate³⁴⁶. U7 was President of the legislative drafting committee for the establishment of the Economic and Social Committee (Law 2232/1994). He was appointed President of the Economic and Social Committee on 14.12.1994, and served as President of the Management Board of the Organisation for Mediation and Arbitration (1991-1999). U8 became Secretary of the Management Board of the Centre for International and European Economic Law (1993-1997), whereas U21 was appointed member of the Committee for the Study on the improvement of the legislation on National Endowments in 1999.

iii) High-ranking civil servants

Some high-ranking civil servants participate in important dimensions of the index, namely, the political and the institutional-financial, thus formulating interesting involvement combinations (P+I, I+IF)³⁴⁷. More specifically, top civil servants (CS9, CS10, CS52) are politically involved. A former Director General of the Ministry of the Interior (CS9) retired from the authority after his appointment as Secretary General at the Ministry of the Interior in 2004 under the New Democracy Government. A former Director General of the Ministry of the Interior (CS10) after his retirement from the service was appointed Special Advisor at the Political Bureau of the Minister of the Interior under the PASOK Government in 1993. A former Director General of the Ministry of the Interior (CS52) retired from the authority after her appointment as Secretary General at the Ministry of the Interior in 2009 under the PASOK Government. As for the high-ranking civil servants' institutional involvement, they were many times appointed as members of working groups and committees constituted by Ministries, (CS9(8), CS10(4), CS11, CS17(2), CS28, CS30(2), CS38(4), CS39, CS51(2), CS52(7)), members of advisory bodies in public administration (CS28(2), CS52(2)), members of the Central Examination Committee of the National School of Public Administration for the entrance competition (CS9(4), CS39, CS42(3)).

Their financial and institutional involvement is important not only as an event on its own. In most cases such appointments to the management boards of organisations, enterprises, or legal persons of the public sector may conceal political affiliation. In other words, certain persons, who might be sympathisers of a party or party members, are appointed to such positions when a certain political party is in government. The following appointments pertain to the category of financial and institutional involvement: CS17 and CS39, former Director Generals at the Ministry of the Interior were appointed Alternate Member and member of the Management Board of the Organisation for the Administration of Public Material (ODDY) in 1993; the former Assistant Director General of the Public Power Corporation (CS41) was appointed i) President of the Management Board of the Athens-Piraeus Electric Railways S.A. and

³⁴⁵ He retired from the National Technical University of Athens in 1997. Source: Official Website of the International Association of Geodesy, available at: <http://www.gfy.ku.dk/~iag/HB2004/part3/32-levalloir-price.pdf>, date of access, 26.5.2011.

³⁴⁶ He submitted his resignation on 6.2.1997 (Government Gazette, vol. B, no 193, 17.3.1997).

³⁴⁷ See Appendix 8, table 1.

General Director³⁴⁸ of its services (1995-1997), ii) Member of the Management Board of the Athens Urban Transport Organisation with a five-year mandate in 1997, and iii) President³⁴⁹ of the Management Board of the Electric Railways S.A. representing the State in 1997 (Government Gazette, vol. B, no 1023, 20.11.1997); CS51, former Director General of the Ministry of the Interior was appointed as i) member of the Management Board of the Fund of Deposits and Loans in 1993, and ii) as member of the Administrative Board of the public S.A. “Themis Constructions”³⁵⁰ in 2004; CS55, a former Director of the General Accounting Office, was appointed i) member of the management board of the Hellenic Aerospace Industry S.A. in 2004, and ii) Member of the management board of the Public Power Corporation S.A. in 2005.

The overwhelming majority of the high-ranking civil servants present low intensity involvement. Only two top civil servants (CS9, CS52) feature in the medium (10 times) and high intensity scale (15 times), respectively³⁵¹.

We have the cases of three high-ranking civil servants (CS9, CS11, and CS18) with a functional accumulation status³⁵² during their term of office, that is, they continued to perform their duties as Directors General at their respective services³⁵³ while they served as Councillors at the Supreme Council for the Selection of Personnel. As we have already mentioned the case of the high-ranking civil servant CS18 is a striking one since she was simultaneously Councillor of the Supreme Council for the Selection of Personnel, and Director General of its Secretariat. Moreover, as we have earlier stated, the renewal of her functional accumulation status was irregular. Finally, we have four cases where the Councillors CS9, CS10, CS39 and CS55 are appointed to various positions comprised in the involvement in public life index during their term of office. They participated in various working groups and committees constituted by Ministries (CS9, CS10, CS39), whereas CS55 was appointed as member of the management board of the Operator of the National Gas System S.A.

iv) Legal Councillors of State

The Legal Councillors of State represent a minority professional group in the authority. Therefore, both their involvement³⁵⁴ in the index and its intensity are low³⁵⁵. However, we should remind that two of the Legal Councillors of State had the rank of Vice-President of the Legal Council of State, and had been promoted by the executive. In other words, their institutional involvement is relevant. Moreover, the Councillor LC37 was politically involved since he was appointed as member of the Central Legislative Drafting Committee, namely a governmental position.

³⁴⁸ He submitted his resignation from the post of General Director (Government Gazette, vol. B, no 651, 1.8.1997)

³⁴⁹ He submitted his resignation on 30.7.2001 (Government Gazette, vol. B, no1029, 3.8.2001)

³⁵⁰ The anonymous company was founded by law 2408/1996, and is operating in the public interest regarding the repair, design, expansion, construction, equipment and organization of the Judiciary Buildings.

³⁵¹ See Appendix 8, table 2.

³⁵² See Appendix 8, table 3.

³⁵³ CS9 was Director General at the Ministry of the Interior, CS11 was Director General at the Ministry of Environment, Physical Planning, and Public Works, and CS18 was Director General at the Secretariat of the Supreme Council for the Selection of Personnel.

³⁵⁴ See Appendix 8, table 1.

³⁵⁵ See Appendix 8, table 2.

v) Free-lance professionals

The free-lance professionals also present poor involvement as far as broadness and intensity are concerned³⁵⁶. However, we have evidence that two of them are politically involved. The Councillor FP43, a lawyer, before his appointment to the authority in 2003, ran for Councillor with the left-wing faction “Democratic Fighting Rally-Fighting Lawyers” supported by the Greek Communist Party in the elections of the Athens Bar Association in 2002³⁵⁷. Moreover, he was elected member of the Disciplinary Council³⁵⁸ of the Athens Bar Association in 2002. The Councillor FP56, an economist specialized in management, ran for parliament as member of the party of Popular Orthodox Rally, an extreme right-wing party, in the national elections of 2007. Further evidence for his political affiliation is given by his appointment as member of the Committee for the procurement of goods of relevant financial or technological value of the Organisation of the Greek Railways S.A. (O.S.E). He was proposed by the political party of the Popular Orthodox Rally as its representative³⁵⁹. The appointment pertains to the financial dimension of the index, and took place four and a half months before his selection as Councillor in the authority.

b. The Hellenic Data Protection Authority

i) Judges

According to our findings, the judges’ institutional involvement is relevant as was the case with the Supreme Council for the Selection of Personnel. More specifically, 4 of 9 judges (J1, J2, J19, J33) had the rank of President and Vice-President of the Supreme Courts and had been promoted by the executive. They participated in i) special courts and councils provided for in the Constitution (J1 (2), J2, J22(3)), and ii) various committees and councils exclusively or partly constituted by judges as provided for in legislation (J1, J19(2), J34). Moreover, a number of judges were appointed as President (J33(2)) and members of various legislative drafting committees (J2, J19(2), J34), as President of working groups (J2), and as President (in his capacity as Judge of a Court of Appeals) of the Secondary Council for the Selection of Medical and Dental Personnel (J27). Finally, the President-J19 was appointed Caretaker Minister of Justice before the national elections of 2000, whereas the President-J33 served as a judge of the Court of First Instance of the European Communities (1989-1992) on the proposal of the Greek Government.

Two judges have political involvement. The Deputy President-J2 was appointed as member of the Central Legislative Drafting Committee (KENE) in 1993 and 1995,

³⁵⁶ See Appendix 8, tables 1 and 2.

³⁵⁷ Source: Newspaper Rizospastis, issue of February 24, 2002, available at: <http://www2.rizospastis.gr/story.do?id=1160857&publDate=24/2/2002>, date of access: 1.3.2011

³⁵⁸ According to the Code of the Greek Lawyers, the regular and alternate members of Disciplinary Councils of the Greek Bars Associations are selected by their management boards. Their term of office ends with the expiration of the mandate of the management board that appointed them (article 66 par. 1 and 3). Source: Council of the Bars and Law Societies of the European Union, The Code of Greek Lawyers, available at: www.ccbe.org/.../user.../code_grece_elpdf12_1187786105.pdf, date of access: 27.5.2011.

³⁵⁹ Document no. 5013/24.10.2007 of the Director General of the party of the Popular Orthodox Rally (Government Gazette, vol. YODD, no 11, 15.1.2008)

whereas the President-J19 was appointed President of the same committee and served during 1998-2003³⁶⁰. As for their institutional and financial involvement, both J1 and J2 resigned from their positions as President and Alternate Vice-President of the authority since they were appointed to other appealing positions. J1 became the first Greek Inspector General of Public Administration, whereas J2 was appointed as member of the Board for the Management and Reformation of the river Kifissos of Attica and its torrents. Finally, J33 was a member of the teaching staff under contract of the National School of Public Administration, and the National School of Judicial Officers. Finally, the judges' involvement in public life is quite broad, that is, three of them participate in two dimensions of the index (I+IF, P+I, I+S), one participate in three (P+I+IF), and three are only institutionally involved³⁶¹.

The intensity of the judges' involvement in public life ranges from low to medium³⁶². Regarding cases of functional accumulation status³⁶³, the Alternate Vice-President, J2, performed his duties in the authority on a part-time basis parallel with the exercise of his judicial duties as Vice-President of the Council of State. Moreover, while he served in the authority, he was institutionally involved as member of the permanent legislative drafting committee of the Ministry of Justice, and President of a working group. It is obvious that the positions of Alternate Vice-President of the authority and Vice-President of the Council of State are incompatible and violate the principle of the impartiality of the Judiciary. In other words, since the decisions of the authority may be appealed to the Council of State, there was high probability that J2 would have to rule on the lawfulness of a decision he had previously taken in his capacity as Alternate President of the authority. Indeed, the Constitution of 2001 abolished the appointment of judges to administrative positions while on active service. However, article 89, par. 2 of the Constitution provides that judges may sit on legislative drafting committees while on active service, thus ignoring the fact that the same judges may in turn decide on the constitutionality or unconstitutionality of the law they had previously elaborated as members of the competent legislative drafting committee. It is true that the experience of judges is valuable for the elaboration of a draft law. Nevertheless, the jurisprudence of the European Court of Human Rights held that the principle of the impartiality of the tribunal should not be violated³⁶⁴.

³⁶⁰ He submitted his resignation on 10.2.2003 (Government Gazette, vol. B', no 191, 19.2.2003), three days before the publication of his appointment as President of the Hellenic Data Protection Authority.

³⁶¹ See Appendix 8, table 4.

³⁶² See Appendix 8, table 5.

³⁶³ See Appendix 8, table 6.

³⁶⁴ We cite the summary of the decision *Procola v. Luxembourg* (1995) as incorporated into the opinions of the Lords of Appeal for judgement in the cause *Davidson (AP) (Original Respondent and Cross-appellant) v. Scottish Ministers (Original Appellants and Cross-respondents)* [2004] UKHL 34 "*In Procola v Luxembourg (1995) 22 EHRR 193, a dairy association complained of four milk quota orders made with retrospective effect pursuant to a domestic regulation and a domestic statute. The regulation had been submitted in draft to the Conseil d'Etat, which had advised that a statute was necessary to give retrospective effect to the proposed new rules and had drafted a single clause bill which had been enacted as the statute. The association's challenge to the four orders, based on their retrospective effect among other things, came before the Judicial Committee of the Conseil d'Etat, four of whose five members had previously taken part in drawing up the Conseil d'Etat's opinion on the draft regulation and framing the bill. The association's challenge was dismissed, and it complained that the Judicial Committee was not an independent and impartial tribunal and that its rights under article 6 of the European Convention had been violated. A majority of the Commission held that there had been no violation of article 6, but a minority dissented, holding (page 203) that, having regard to the importance of appearances and the increased concern of the public that the fair administration of*

Finally, the President J19 was ex officio member of the National Commission for Human Rights representing the Hellenic Data Protection Authority.

ii) University Professors

University Professors are the predominant professional category (59%, 23 of 39) in the authority. Their career paths are extremely rich with remarkable presence in public life. Their institutional involvement comprises intense participation in i) legislative drafting committees (U7(3), U9(5), U29(7), U30(3), U31(2)), ii) various working groups, committees or councils constituted by Ministries or other legal persons of the public sector (U3(3), U4(3), U6(4), U7(7), U14(4), U16, U18, U25, U29, U30(4), U32, U38(3)), iii) advisory bodies in public administration (U8(2), U9, U20, U25(2), U28, U32), iv) examination or selection committees (U3, U29, U30(3), U32, and v) special courts and councils provided for in the Constitution³⁶⁵ (U3, U4(4), U7, U9, U16(2), U29, U31(2)). The member U4 was appointed Caretaker Minister of the Interior before the national elections of 2004.

Their political involvement is important as we gathered information for 10 of 23 university professors (U3, U4(3), U7, U9, U17(2), U20, U25, U26, U28, U29). The member (U3) submitted his resignation from the authority, and was appointed Minister of Justice (2000-2001) under the second Simitis's Government (PASOK).

justice should be guaranteed, the association could legitimately fear that its case would not be heard by an independent and impartial tribunal. The Court unanimously upheld this dissent. In paragraphs 44-45 of its judgment it said: "44. The only issue to be determined is whether the Judicial Committee satisfied the impartiality requirement of Article 6 of the Convention, regard being had to the fact that four of its five members had to rule on the lawfulness of a regulation which they had previously scrutinised in their advisory capacity. 45. The Court notes that four members of the Conseil d'Etat carried out both advisory and judicial functions in the same case. In the context of an institution such as Luxembourg's Conseil d'Etat the mere fact that certain persons successively performed these two types of function in respect of the same decisions is capable of casting doubt on the institution's structural impartiality. In the instant case, Procola had legitimate grounds for fearing that the members of the Judicial Committee had felt bound by the opinion previously given. That doubt in itself, however slight its justification, is sufficient to vitiate the impartiality of the tribunal in question, and this makes it unnecessary for the Court to look into the other aspects of the complaint." Source: The Official Website of the Parliament of the United Kingdom, available at: <http://www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040715/david-1.htm>, date of access: 29.5.2011. However, the constitutional legislator of the Constitution of 2001 did not abolish the clause regarding the participation of judges on active service in legislative drafting committees. Thus, the Rapporteur of the majority of the Constitution of 2001, Evangelos Venizelos, admitted the possibility of conflict between the jurisprudence of the European Court of Justice and the participation of judges in legislative drafting committees. He stated: "Article 88, par. 9, possibility of judges on active service to participate in legislative drafting committees. Indeed, there may be a problem with the jurisprudence of the European Court of Justice or the Court of the European Communities. If this jurisprudence is stabilized, our Constitution will be implemented accordingly, but I consider improbable the international stabilization of such a jurisprudence that excludes the judges as scientists from the legislative drafting committees...Consequently, I think that the Constitution should permit the participation of judges on active service in legislative drafting committees, and if there is a problem we shall see how the relevant clause will be interpreted". Minutes of Parliament, 7th Revisionary Parliament, 10th Period (of Presidential Parliamentary Democracy), First Assembly, Session 133, discussion and debate in principal, p. 5735, March 7, 2001, afternoon session, available at: <http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/SYN030701a.pdf>, date of access: 14.5.2011

³⁶⁵ Apart from judges of the Supreme Courts, these special courts and councils are also constituted by law professors chosen by lot.

U4 served as Secretary of the Cabinet (1993-1996) under the second and third Andreas Papandreou Governments (1988-1989, and 1993-1996) whereas he is currently Secretary General of the Government³⁶⁶ (2009-) under the Georgios Papandreou's Government (PASOK). The member U29 was appointed member of the Central Legislative Drafting Committee (KENE) by the Prime Minister Konstantinos Karamanlis.

The members U7, U17, U20, U25, U26, and U28 also have party affiliation: U7 was appointed as member of the Group on migration Policy of the party of PASOK upon decision of the President of the party, Georgios Papandreou, regarding the constitution of a group on Migration Policy³⁶⁷. U17 ran for Municipal Councillor of the City of Athens in the Municipal and Prefectural Elections of 1998 with the Communist Party of Greece. Moreover, he ran for Member of the European Parliament with the Communist Party of Greece in the European Elections of 1999. The member U20 resigned from the authority and was appointed Secretary General of Research and Technology at the General Secretariat of the Ministry of Development (2004-2008) under the New Democracy Government, whereas he was elected member of the European Parliament in the European Elections of 2009 with the party of New Democracy. The members U25 and U28 were members of the party of New Democracy since they were appointed as extra-parliamentary members of the Sector for Education and Religious Affairs of the Parliamentary Work of New Democracy with a two-year mandate by decision of the Secretary General of the Parliamentary Group Dimitrios Sioufas, upon recommendation of the Coordinators and Heads of the Sector of Education and Religious Affairs and approval of the President of the Party, Konstantinos Karamanlis.

Regarding their financial involvement, the members U6(3), U14, U25, and U28 participated in Procurement Committees, and other committees with a financial character (U32, U14). The institutional and financial involvement comprises appointments in various agencies of the public sector. More specifically, U8 resigned from the authority and became the first Greek Ombudsman, whereas the members U7, U9, U16, U32 were appointed before or after their term of office to the following independent authorities: the National Council for Radio and Television (U7), the National Authority for Medically Assisted Reproduction (U9), and the Hellenic Telecommunications and Post Commission (U16, U32). The members U7, U14, U25, and U35 were appointed, before or after their term of office, Presidents of the management boards of the following agencies of the public sector: the National Museum of Contemporary Art (U7), the Digital Aid S.A. (U14), the Industrial Property Organisation (U25), the Hellenic Radio and Television (U35). The members U3(3), U10, U16, U20, U30, and U31 were appointed, before or after their term of office, as members of the management boards of the following agencies of the public sector: the Hellenic Copyright Organisation, the National Museum of Contemporary

³⁶⁶ The titles "Secretary of the Cabinet" and "Secretary General of the Government" refer to the same post. The Secretary General of the Cabinet is appointed and dismissed by decision of the Prime Minister, and is published in the Government Gazette. According to Flogaitis (1987) "the Secretary of the Cabinet [due to the nature of his duties becomes] a real participant in the exercise of political and legal power".

³⁶⁷ Source: the Official Website of Pasok, available at: <http://www.pasok.gr/portal/resource/contentObject/id/5d943eb5-9c3d-4dfb-80e6-afd5ff2daa10>, date of access: 4.5.2010

Art, the National Transplant Organisation (U3), the Ephorate of the General State Archives (U10), the State Scholarships Foundation (alternate member-U16), the Information Society S.A. (U20), the European Cultural Centre of Delphi (alternate member-U30), the Greek Mapping and Cadastre Organisation (U31). Finally, the member U25 was appointed as member of the Governing Board of the International University of Greece, whereas the member U3 was elected Rector of Athens University and served for eight years (1983-1991).

The members' scientific involvement is equally relevant. The members U6, U25, U35 were appointed, before or after their term of office, Presidents to the following scientific-research institutions: the Research Academic Computer Technology Institute (U6), Director and President of the Board of the Centre of International and European Economic Law (U25), President of the National Centre for Social Research (U35). Finally, the member U20 was member of the Scientific Council of the National Centre for Scientific Research, whereas he was appointed as representative of Greece to the European Space Agency.

Finally, three University Professors are involved in Civil Society organizations (U7(2), and U17). More specifically, U7 is a member of the Management Board of two NGOs: the Hellenic League for Human Rights (HLHR), and the Research Centre for Minority Groups (KEMO). U17 is a member of the Secretariat of the Greek Committee for International Detention and Peace.

To summarize, the university professors' career paths are rich, and thus their involvement in public life is broad since three of them participate in five dimensions of the index (P+I+IF+S+CS, P+I+F+IF+S), one participate in four dimensions (P+I+IF+SC), six participate in three dimensions (I+F+S, I+IF+S, I+F+IF, P+I+F), six participate in two dimensions (P+I, I+IF, P+SC, IF+SC), and only two in one dimension (I, P)³⁶⁸. Accordingly, the intensity of their involvement in public life is indeed remarkable. Seven University Professors pertain to the low scale, eight pertain to the medium scale, and six pertain to the high scale. U7 and U30 appear in the involvement index 15 and 19 times, respectively³⁶⁹.

The University Professors fulfil the requirements for the functional accumulation status as set forth in our definition. In other words, at a certain period, they are on active service, serve as regular or alternate members in the authority, and most of them are simultaneously appointed to other positions³⁷⁰. Moreover, the majority of the Law Professors, who are prominent lawyers in their field of specialization, have their own law offices. However, their professional capacity as lawyers in combination with their position in the authority might give rise to conflict of interest situations³⁷¹.

³⁶⁸ See Appendix 8, table 4.

³⁶⁹ See Appendix 8, table 5.

³⁷⁰ See Appendix 8, table 6, column 3.

³⁷¹ The case of the University Professor U30 is a striking example of a conflict of interest situation. He was the lawyer of Michalis Christophorakos who was CEO of the Greek subsidiary of SIEMENS HELLAS from 1996 to 2007 and was suspected along with three German former directors of paying bribes to political parties, politicians, and high-ranking public officials in order to obtain contracts through public procurements programmes (e.g. the telecommunications operator OTE, the Greek Railways Organisation, medical equipment for hospitals, the Public Power Corporation, the armament programmes "Patriot"). Other kickbacks were allegedly paid to Greek politicians in exchange for

We should also point out that during their term of office on the authority they have the right to be elected Presidents or Alternate Presidents in their respective university departments since they are full-time employed university professors. Interestingly enough, two university professors (U4³⁷² and U18³⁷³) were elected Alternate Presidents, and three university professors (U20³⁷⁴, U28³⁷⁵, U30³⁷⁶) were elected Presidents of their University Departments while they served in the authority. Therefore, they seem to assume multiple roles in public life, and simultaneously being powerful in their university departments.

Even during their term of office the University Professors' involvement is broad and intense³⁷⁷. More specifically, their institutional involvement comprises participation in i) legislative drafting committees ii) various working groups, committees, councils, or project management groups constituted by Ministries or other legal persons of the public sector iii) advisory bodies in public administration iv) examination or selection committees and v) special courts and councils provided for in the Constitution. The

Siemens being included in work on security systems (C4I) for the Athens Olympic Games in August 2004. Sued deutsche Zeitung has estimated the illegal payments amounted to around 100 million euros. Athens News in an article regarding the Siemens Scandal, published on line on July 4, 2008 (available at: http://www.athensnews.gr/old_issue/13294/18055, date of access: 30.5.2011) states that: "The American legal giant [Debevoise and Plimpton] was picked by the German industrial giant to audit its "black" slush funds and appear lily-white for the American Security and Exchange Commission, which regulates the New York Stock Exchange, on which Siemens is traded". Within the framework of the research of the law firm Debevoise and Plimpton in relation to the Siemens scandal in Greece, U30 and other lawyers formulated a text and in summer 2007 filed a request to the Hellenic Data Protection Authority on the formulation of an opinion regarding the procedure that had to be followed for the provision of all necessary information to the law firm with respect to the issue of the protection of personal data. U30 was at the same time member of the Hellenic Data Protection Authority. Kostas Tzavaras, parliamentary representative of the party of New Democracy, and member of the Parliamentary Inquiry Commission, which was set up by the Parliament on January 28, 2010 to investigate the Siemens Scandal, claimed that U30 and the other lawyers submitted the request to the Hellenic Data Protection Authority in order to block the law firm from investigating Christophorakos's archive. Another member of the Parliamentary Inquiry Commission, Panos Kammenos (New Democracy), claimed that U30 was the rapporteur for the elaboration of the request. However, the opinion of the authority was still pending by the time the investigation of the Parliamentary Inquiry Commission was taking place. Christophorakos was finally arrested in May 2009 in a house south of Munich where he was hiding. U30 testified to the Parliamentary Inquiry Commission, that he had stopped representing M. Christophorakos in July 2008 due to the fact that his client refused to follow the legal line he had suggested. Finally, he testified that he had submitted his resignation from the Hellenic Data Protection Authority, the Public Power Corporation, and various committees of the ministry of Justice in July 2007 due to health problems. [The above mentioned information is based on various articles and comments in newspapers, websites, and the upload of the relevant minutes of the Parliamentary Inquiry Commission on websites].

³⁷² He was elected alternate President of the Department of Law, Athens University. Mandate: 29.8.2002-31.8.2003 (G. G., vol. NPDD, no 193, 29.8.2002).

³⁷³ She was elected Alternate President of the Department of General Law, Panteion University of Social and Political Sciences, mandate: 1.9.2010-31.8.2012 (G. G., vol. YODD, no 294, 2.9.2010)

³⁷⁴ He was elected President of the Department of Informatics at the University of Thessaloniki, mandate: 1.9.2003-31.8.2005 (Government Gazette, vol. NPDD, no 172, 18.7.2003)

³⁷⁵ He was elected President of the Department of Informatics at the University of Thessaloniki, mandate: 1.9.2007-31.8.2009 (Government Gazette, vol. YODD, no 441, 15.10.2007)

³⁷⁶ He was elected President of the Department of Law at the University of Athens, mandate: 1.9.2007-31.8.2009 (Government Gazette, vol. YODD, no 362, 17.8.2007)

³⁷⁷ See Appendix 8, table 6.

members U3, U4(2), U7, U8, U18 were ex officio members of the National Commission for Human Rights representing the Hellenic Data Protection Authority. Other noteworthy appointments pertaining to the dimension of institutional involvement of the index are presented hereafter: member of the Joint Supervisory Body of Europol³⁷⁸ representing Greece and Alternate Judge of the Administrative Tribunal of the Council of Europe (U4), member of the Management Board of the Greek National Committee of UNESCO (U7), member of the Greek-National Section of the International Commission on Civil Status (U9), President of the Scientific Council of the Hellenic Parliament (U16), member of the Committee for the examination of requests regarding the granting of a postponement of serving in the armed forces to PhD holders or those who excel at scientific work or research abroad (U38).

As for cases of political involvement, the member U9 was appointed as member of the Central Legislative drafting committee by the Prime Minister Konstantinos Simitis (PASOK), whereas the member U29 was appointed member of the said committee by the Prime Minister Konstantinos Karamanlis (New Democracy). Noteworthy cases of financial involvement comprise the following appointments: members of procurement committees U6(2), U14, member of the Technical Council of the National Technical University of Athens (U14), Alternate Member of the Committee for the supply of goods of relevant economic or technological value (the supply of informatics articles for the implementation of the project “Computer Equipment for the participation of the Greek Police to the modernization of Public Administration with the use of Informatics (POLICE ON LINE), assigned to the “Information Society S.A.”) representing the party of New Democracy according to the as of 3.5.2004 document of the General Secretary of the Parliamentary Group of New Democracy (U28), President of the Regional Council of National Legacies of the Region of Central Macedonia (U28).

As for their institutional and financial involvement, the members U3, U6, U18, U25, U30, U31, U32(2), and U35(2) were appointed to the management boards of the following agencies of the public sector: President of the Hellenic Copyright Organisation (U3), Alternate Members of the Management Board of the State Scholarships Foundation (U18 and U31), President of the Industrial Property Organisation (U25), Independent Non Executive Member of the Public Power Company S.A. (U30), Vice-President of the Professional Education and Training Organisation, Member of the National Commission for the definition of Professional Rights (U32), Member of the Management Board of the Peristeri Development SA and Member of the Governing Board of the University of Peloponnisos (U35).

³⁷⁸ According to the official website of the Europol Joint Supervisory Body “it is an independent entity set up to review the activities of Europol in order to ensure that the rights of the individual are safeguarded during the storage, processing and utilisation of personal data held by Europol. This body is composed of two representatives of each of the national Supervisory Bodies who are appointed for a period of five years by each Member State. Each delegation is entitled to one vote for decision making purposes. The Joint Supervisory Body also monitors the permissibility of the transmission of data originating from Europol”, Information available at: <http://europoljsb.consilium.europa.eu/about.aspx?lang=en>, date of access: 30.5.2011.

Finally, their scientific involvement comprises appointments to the following public bodies: member of the Scientific Committee of the Institute for Language and Speech Processing and President of the Council of the Research Academic Computer Technology Institute (U6), member of the Scientific Council of the National Centre for Social Research (EKKE) (U7).

iii) Free-lance Professionals

The overwhelming majority of free-lance professionals are lawyers (5 of 6), whereas this professional category represents 15% of the total number of the members of the authority. Their involvement in public life is quite broad, that is, one of them participates in three dimensions of the index (P+I+S), four participate in two dimensions (I+SC, P+I), and only one in one dimension (I)³⁷⁹. More specifically, their institutional involvement comprises participation in i) legislative drafting committees (FP12, FP15(5), FP24, FP37(3)), and ii) various working groups, committees, councils, or project management groups constituted by Ministries or other legal persons of the public sector (FP12, FP15, FP36(3)). Finally, the member FP12 was head of the Legal Service of the National Delegation of Greece in the European Communities in Brussels. Free-lance Professionals have no financial involvement. As for the scientific dimension, the member FP15 was elected Assistant Professor at the University of Aegean after her retirement from the authority. Finally, three members participate in NGOs: FP11 was President of the Greek Section of Amnesty International, whereas FP12 was a member of the Hellenic League for Human Rights. FP36 is scientific collaborator at the think-tank “Institute for Democracy Konstantinos Karamanlis”.

It is noteworthy that half of the free-lance professionals are politically involved. The member FP36 seems to be systematically politically involved. He was appointed Scientific Collaborator of the Deputy of the First Constituency of Athens and Parliamentary Representative of the Party of New Democracy Professor, Prokopis Pavlopoulos (7/2002-2/2004). Moreover, immediately after the victory of the party of New Democracy in the national elections of 2004, Prokopis Pavlopoulos, who became Minister of the Interior, appointed him as Director of his Political Bureau to the Ministry (2004-24.8.2007). The member FP37 was a trade-unionist. He was elected Vice-President of the Athens Bar Association (1993-1996), and President of the Athens Bar Association (1996-2002). His candidacy was supported by the political party of the left: Synaspismos.

The intensity of their involvement ranges from low (3 members) to medium (3 members)³⁸⁰.

As for their functional accumulation status, it is quite broad since we have located other appointments during their term of office³⁸¹. We should also point out that they could additionally work as lawyers. Some noteworthy appointments pertaining to the dimension of institutional involvement of the index are presented hereafter: alternate member of the management board of the European Monitoring Centre on Racism and Xenophobia upon proposal of the Greek Government (FP11, FP12), president of the

³⁷⁹ See Appendix 8, table 4.

³⁸⁰ Appendix 8, table 5.

³⁸¹ Appendix 8, table 6.

European Commission against racism and intolerance upon proposal of the Greek Government (FP12) (ECRI, Strasbourg), Legal Adviser of PYRKAL (Hellenic Powder and Cartridge Company S.A.) (FP12). The member FP12 participated as member in a legislative drafting committee, and a special committee constituted by the Ministry of Foreign Affairs. Regarding the National Commission for Human Rights, the member FP11 became its member in his capacity as ex President of the Greek Section of Amnesty International, and was elected Vice-President, whereas the member FP12 also participated representing the Hellenic League for Human Rights (1999-2005). He was equally elected Vice-President during his first mandate. The member FP24 was appointed as Member of the National Commission for Human Rights by the Prime Minister Konstantinos Karamanlis as prestigious person with expertise in the protection of human rights. The members (FP12, FP37) participated in the said Commission as ex officio members representing the Hellenic Data Protection Authority. The member FP36 was a member of the teaching staff under contract at the Department of Political Science and International Relations, (University of Peloponnese), and the Department of Marketing and Communication, (Athens University of Economics and Business).

The alternate member FP15³⁸² was politically and institutionally and financially involved during her mandate in the authority. She served as special adviser on issues of Organisation and Management in the Political Bureau of the Prime Minister Konstantinos Simitis (First and Second Konstantinos Simitis Government 1.2.1996-10.3.2004). Her appointment was revoked by the Prime Minister Konstantinos Karamanlis after the victory of the party of New Democracy in the national elections of 2004. She was also appointed i) as member of the management board of the Information Society S.A. in 2001, and ii) as member of the Working Group on International Issues constituted by the Ministry of Justice in 2000.

iv) Lawyers with a salary mandate³⁸³

The lawyer with a salary mandate (LM39), alternate member in the authority, is a PhD holder specialised in Social Law. He represents a case of astonishing involvement in public life in relation to its intensity (13 times) and broadness (P+I+FI+S) which may only be compared with similar cases from the professional category of university professors. The findings from the government gazette and the annual reports of the Greek Ombudsman permit us to follow his career paths chronologically. He was first appointed as member of the special scientific staff of the Greek Ombudsman where he served from 2003-2007. In 2004 he was appointed Vice-President of the management board of the National Centre for Social Emergency Assistance (2004-2006). The Annual Reports of the Greek Ombudsman for the years 2005 and 2006 mention that in 2005 and 2006 he was on secondment to another public service without giving any further information. According to indirect

³⁸² It should be pointed out that she was member of the Committee constituted by the Ministry of Justice regarding the transposition of the directive 95/46/EC in the Greek legal order on the processing of personal data and the establishment of the Hellenic Data Protection Authority. She also participated in the final elaboration of the draft law 2472/1997. Source: The Explanatory Report of June 17, 1996 that accompanied the draft law “on the Protection of Individuals with regard to the Processing of Personal Data”, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=27da7e14-69cd-49f1-bd4f-742beb40060d, date of access: 14.6.2011.

³⁸³ Lawyers who are appointed and paid by services and agencies of the public sector (ministries, public law legal entities, private law legal entities, local authorities, and public enterprises and organizations)

information from the government gazette, he served on secondment as Special Adviser of the Minister of the Interior, Public Administration and Decentralisation, P. Pavlopoulos. In 2007 he resigned from the Greek Ombudsman, and was appointed as lawyer with a salary mandate to the General Hospital of Athens “Hippokrateion” on 30.7.2007. Until his resignation from the Greek Ombudsman he was still on secondment as Special Adviser of the Minister of the Interior.

For the period 24.8.2007-19.9.2007 he was appointed as Special Collaborator to the Political Bureau of the Caretaker Minister of the Interior, S. Flogaitis, with parallel exercise of his main duties as lawyer with a salary mandate at the General Hospital of Athens “Hippokrateion”. After the victory of the party of New Democracy in the national elections of 2007, he was appointed as Special Collaborator to the Political Bureau of the Minister of the Interior, P. Pavlopoulos, while exercising his main duties as lawyer with a salary mandate at the General Hospital of Athens “Hippokrateion”. He was also member of the teaching staff under contract at the Department of Social and Educative Policy of the University of Peloponnese for the academic year 2007-2008. He became alternate member of the authority on August 4, 2008 while he was still Special Collaborator to the Political Bureau of the Minister of the Interior. He submitted his resignation from the post of Special Collaborator on February 3, 2009. During his mandate to the Ministry of the Interior (2005-2009), first on secondment, and then as a political appointee, he participated eight times in various working groups, committees and project management groups.

c. The Greek Ombudsman

i) High-ranking Civil Servants

High-ranking Civil Servants represent 40% (6 of 15) of the Deputy Ombudspersons in the authority. Interestingly enough, the majority of the Ombudspersons coming from this professional category, that is, 4 of 6, (CS5, CS10(2), CS11(4), CS12) is politically involved. Moreover, we could indirectly assume that one more Ombudsperson (CS15) is politically involved. More specifically, the cases of the Deputy Ombudspersons CS10 and CS11 are of great interest. They were previously members of the special scientific personnel³⁸⁴ of the Greek Ombudsman, and possessed postgraduate degrees³⁸⁵ by the time of their appointment to the positions of Deputy Ombudspersons³⁸⁶. They both started their careers as special collaborators and advisers of Ministers and a Secretary General under the PASOK governments. More specifically, CS10 was appointed as expert legal adviser to the Political Bureau of the Minister of the Press and Mass Media (24.6.1996-1998). CS11 was appointed as special Collaborator of the Secretary General of the Ministry of Justice (1994-1995), and served as Special Collaborator of the Minister of Development and the Minister of the Interior from 1996 until 1999³⁸⁷. CS10 was also a trade-unionist since she was elected President of the management board of the Association of the Personnel of the

³⁸⁴ CS10 was appointed as member of the scientific staff in 1998, whereas CS11 was appointed in 1999.

³⁸⁵ CS10 obtained his PhD in 2006, three years after his appointment.

³⁸⁶ They were suspended from their duties as members of the special scientific personnel of the Ombudsman.

³⁸⁷ Vassiliki Papandreou served as Minister of Development from 22.1.1996 until 18.2.1999, and as Minister of the Interior, Public Administration and Decentralisation from 19.2.1999 until 19.3.2000.

Greek Ombudsman (2001-2003), and member of the Service Council of the Authority (2001-2005). She was also member of the legislative drafting committee on the executive law of the constitution 3051/2002 regarding the constitutional independent authorities.

Interestingly enough, they both submitted their resignations from the positions of Deputy Ombudspersons “for personal reasons”, as stated in the relevant act published in the Government Gazette, almost immediately after the victory of the party of PASOK in the national elections of October 2009. CS10 was appointed as Secretary General for Migration Policy at the Ministry of the Interior, whereas CS11 served, on secondment, as Director of the Political Bureau of the Minister of Finance. While they served in these new positions, they were suspended from their duties as members of the special scientific personnel of the Ombudsman. However, CS10 was appointed as Assistant Professor of the Philosophy of Law at the University of Thessaloniki on December 31, 2010³⁸⁸. CS11, in parallel with her duties at the Political Bureau of the Minister of Finance, was appointed i) member of the State Lottery Administration Committee with a two-year mandate, and ii) non executive member of the management board of the Organisation of Football Prognostics S.A. (expiration of mandate in 2014). They were both members of NGOs: CS10 was member of the research Centre for Minority Groups (KEMO), whereas CS11 was member of the Hellenic League for Human Rights (HLHR).

The Deputy Ombudswoman for the Department of State-Citizen Relationships (CS5), a former Director General at the Ministry of the Interior, was a trade-unionist. She was a founding member and ex-President of the Association of the Employees of the Ministry of the Presidency of the Government, and ex-President of the Federation of the Employees of the Ministry of the Presidency of the Government. The Deputy Ombudswoman CS12, was appointed special collaborator of the Secretary General for Equality in 2005 under the New Democracy Government. As for the Deputy Ombudswoman CS15, she was appointed in a short period of time to important posts under the New Democracy Government. More specifically, she was appointed as member of the management board of the National Centre for the Environment and Sustainable Development (2005-2006) by the Cabinet. In 2006 she submitted her resignation, and was immediately appointed as member of the Management Board of the Hellenic Mapping and Cadastral Organisation (OKXE), (2006-2007), and member of the management board of the Cadastre SA (2006-2007), whereas she was simultaneously Director and Head of the Regional Centre of the Cadastre SA in Thessaloniki.

As for their institutional involvement, they participated in legislative drafting committees (CS5, CS11(2), CS12(2)), and various groups and committees constituted by ministries, (CS5(4), CS11, CS12(2)) or carried out expert studies on behalf of a ministry (CS4). CS5 represented Greece in the Committee of Public Administration of the Organisation for Economic Cooperation and Development (OECD), whereas

³⁸⁸ He was suspended from his duties at the University and kept serving as Secretary General at the Ministry of the Interior. He had already submitted his resignation from the position of the special scientific personee of the Greek Ombudsman on April 13, 2011 after his appointment as faculty member. Source: Decision of the Substitute Ombudswoman uploaded on the internet, dated April 13, 2011, reg. no Φ.22.3/9490/2011, Diavgeia, available at: static.diavgeia.gov.gr/doc/4ΑΓΘΙΜ0-Y, date of access: 1.7.2011.

CS10 was expert collaborator of the Council of Europe on matters of institutional guarantees for the protection of human rights. Regarding, their scientific involvement, CS5 was a member of the teaching staff under contract of the National Centre for Public Administration.

Their involvement in public life is broad since two participate in four dimensions of the index (P+I+FI+CS, P+I+S+CS), one participate in three dimensions (P+I+S), one in two dimensions (P+I), and two in one dimension dimension (I and FI)³⁸⁹. The intensity of their involvement ranges from low to medium, whereas CS11 pertains to the scale of high intensity (11 times)³⁹⁰.

The functional accumulation status is incompatible with the exercise of the duties of the Ombudsmen and Deputy Ombudsmen with the exception of part-time University Professors. Some high-ranking civil servants appear in the involvement index during their term of office³⁹¹. They participate in legislative drafting committees, sometimes representing the Greek Ombudsman, and various working groups. Finally, CS10 was twice appointed as alternate member of the National Committee for Human Rights representing the institution of the Greek Ombudsman.

ii) University Professors

Two University Professors were appointed as Ombudsmen. U1, a Professor of Political Science, became the first Greek Ombudsman in 1997. His scientific involvement comprises the following positions: member of the Scientific Council of the National Centre for Social Research (1993) with a three-year mandate and Director of the National Centre for Social Research (EKKE) (1995-1998). As for his institutional involvement he was member of the National Advisory Board of Research (1994-1998), whereas his appointment as alternate member of the Hellenic Data Protection Authority in 1997 constitutes his institutional and financial involvement in public life. During his mandate, he was appointed as member of the management board of the Cultural Foundation of the National Bank of Greece (1999-2005), member of the National Council on Public Administration Reform (2000), and ex officio member of the National Commission for Human Rights representing the institution of the Greek Ombudsman. As for his involvement in Civil Society, he was Director of the think tank Hellenic Foundation for European and Foreign Policy (1988-1991). After his retirement from the authority, he became European Ombudsman in 2003, whereas his mandate to the position was renewed in 2005 and 2010.

U2, an Assistant Professor of Constitutional Law, was appointed Deputy Ombudsman for Human Rights in 1998. In 2003, he was elected Ombudsman by the Conference of Presidents, whereas his mandate was renewed in 2008. Before his appointment as Deputy Ombudsman, in parallel with his academic duties³⁹², he worked as Scientific Collaborator (research fellow) at the Department of Parliamentary Studies and

³⁸⁹ See Appendix 8, table 7.

³⁹⁰ See Appendix 8, table 8.

³⁹¹ Appendix 8, table 9.

³⁹² He was appointed Lecturer in December 1990 at the Department of Law, Athens University, and became Assistant Professor at the same department in June 1998.

Research of the Directorate of Scientific Studies at the Scientific Service of the Hellenic Parliament³⁹³. In September 2010, he submitted his resignation from the authority in order to run for the municipality of Athens in the Regional and Municipal Elections of 2010. His candidacy was supported by four political parties: the Democratic Left, the Panhellenic Socialist Movement (PASOK), Action, and the Ecologists-Greens. He was finally elected Mayor of Athens on 14.11.2010 with 51,95% of the votes. However, the elections were characterized by an extremely low voter turnout³⁹⁴. During his electoral campaign, he claimed that he was not involved in politics, and thus had no party affiliation. He simply stated that when he was a student he was a member of the Youth Organisation “Rigas Feraios” of the Internal Communist Party of Greece. Apart from any considerations regarding the direct entrance of technocrats into politics, what is interesting in this case is that the roles of the regulator and regulatee are reversed: the Ombudsman, the regulator, becomes the regulatee, that is, the Mayor of Athens. Moreover, holding a public office might hurt the prestige of the institution of the Ombudsman, thus facilitating certain criticisms. It is probable that the Ombudsman’s future political aspirations might impact on the exercise of his duties during his term of office. On the other hand, the relationship between the regulatee, Mayor, and the regulator, that is, his former subordinates in the authority, might lead to regulatory capture.

The institutional involvement of the University Professors U9, U13 and U14 concerns their participation in legislative drafting committees and various working groups, project management teams, committees constituted by ministries. The case of U14 is interesting. He was appointed on January 23, 2002 as member of the Project Management Team constituted by the Ministries of the Interior and Public Order for the formulation of a framework of action for a policy against crime with mid-term and long-term targets. The work of the Team should be completed within 2 years with a maximum number of 50 sessions per year. The work of the team was extended for one more year on January 30, 2004. He was also appointed as member of the permanent legislative drafting committee of the Ministry of Public Order with a two-year mandate on May 17, 2002. Interestingly enough, U14 was one of the defense lawyers of the Terrorist D. Koufondinas in the first and second-instance trials of the terrorist organization “November 17th” in 2003 and 2005.

Other important appointments regarding their institutional involvement are as follows: advisor of the OECD, advisor of Studies at the National Centre for Public Administration (1989-1991), member of the Assessment Committee regarding the evaluation and the formulation of an opinion on the selection of the personnel of the special services for the management and implementation of Operational Programmes financed by the European Union (U9), alternate member of the Central Scientific Council of Prisons (U14). As for their scientific involvement, U13 was Director of the Institute for Social Policy of the National Centre for Social Research (EKKE) (five-year mandate), and member of the Management Board of the National Centre for Social Research (EKKE). U9 was member of the teaching staff under contract of the

³⁹³ He was appointed as Scientific Collaborator in September 1989.

³⁹⁴ Registered voters: 488.150, voted: 167.104 (34,23%), invalid votes: 5,44%, blank votes: 5,67%. Votes for U2: 77.165. Source: Ministry of the Interior, Decentralisation and Electronic Governance, available at: [http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#{"page":"level","params":{"level":"dhm_d","id":9186}}](http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#{), date of access: 27.12.2010

National School of Public Administration. As for their institutional and financial involvement, U9 was appointed as member of the management board of the National Centre for Public Administration (1988), and member of the Management Board of the National Centre for the Environment and Sustainable Development (2001). However, she submitted her resignation on 2.4.2003 shortly before her appointment as Deputy Ombudswoman on 27.6.2003. U13 was alternate member of the management board of the Organisation against Drugs (OKANA) with a three-year mandate (Government Gazette, vol. B, no 1711, 20.12.2001). After the victory of the party of New Democracy in the national elections of 2004, all the members of the management board of the Organisation against Drugs submitted their resignation on 24.5.2004.

The University Professors' involvement in public life is not broad compared to that of the university professors appointed in the Hellenic Data Protection Authority. Two university professors participate in three dimensions of the index (I+FI+S), whereas the other three participate in two dimensions (P+I, I+S, I+FI)³⁹⁵. The intensity of their involvement ranges from low to medium with no case of high intensity³⁹⁶.

According to the executive law of the constitution 3051/2002 on the constitutional independent authorities and the law 3094/2003, the Deputy Ombudsmen may exercise their academic duties on a part-time basis. Interestingly enough, there was no legislative initiative to extend the status of functional accumulation to full-time employed university professors as was the case with the Hellenic Data Protection Authority and the Hellenic Authority for Communication, Security and Privacy. Some university professors appear in the involvement in public life index during their term of office, and their involvement is mainly institutional (U1, U9³⁹⁷, U14³⁹⁸) whereas U14 had financial and institutional involvement as alternate member of the management board of the Society for the Protection of Minors of Corinth.

iii) Free-lance Professionals

All the free-lance professionals are lawyers. Despite their small number, their involvement in public life is broad. One free-lance professional participates in four dimensions (P+I+S+SC), one participates in three dimensions ((I+S+SC), and one in one dimension (SC)³⁹⁹. Only one Deputy Ombudswoman is politically involved (FP8). She was special adviser of the Deputy Minister of Labour and Social Security. As for their institutional involvement, the Deputy Ombudswoman FP3 participated in legislative drafting committees, and was expert of the European Commission in the health and welfare sector (1989-1998). Their scientific involvement is important since FP3 was a member of the teaching staff under contract at various departments of higher educational institutions (intensity: 7 times), and other public educational

³⁹⁵ See Appendix 8, table 7.

³⁹⁶ See Appendix 8, table 8.

³⁹⁷ During her mandate U9 was i) member of the Central Committee for the Simplification of Procedures representing the institution of the Ombudsman, and ii) Member of the Committee constituted by the Supreme Council for the Selection of Personnel for the examination of the Special Written Test- Test of General Knowledge and Skills. U14 was ex officio alternate member of the National Committee for Human Rights representing the institution of the Greek Ombudsman.

³⁹⁸ During his mandate, U14 was ex officio alternate member of the National Committee for Human Rights representing the institution of the Greek Ombudsman.

³⁹⁹ See Appendix 8, table 7.

Schools (intensity: 4 times). In 2010, she finally obtained a tenured position at the Technological Educational Institute of Athens. FP8 resigned from the position of Deputy Ombudswoman after her appointment as Assistant Professor at the Department of law, Athens University. The dimension of Civil Society seems to be the common denominator of their involvement in public life. FP3 was a member of NGOs in Greece and abroad. No further information is given in her CV regarding their title or field of activity. FP7 was a founding member (1992), and member of the management board of the NGO “ARSIS-Social Organisation for the Support of Youth”, whereas FP8 is a member of the Scientific Committee of the NGO “Union for the protection of Social Rights” founded in 2009.

Despite the fact that the functional accumulation status is incompatible with the capacity of Deputy Ombudsperson, with the exception of university professors under part-time employment, the Deputy Ombudswoman FP8 was also a member of the teaching staff under contract at Athens University. More specifically, according to her summary Curriculum Vitae contained in the Annual Reports of the Greek Ombudsman for the years 2003, 2004, 2005, and 2006⁴⁰⁰, she was member of the teaching staff under contract corresponding to the academic rank of Lecturer at the Law Department of Athens University, and taught Law of Social Security. She was elected assistant professor at the same department in October 2007⁴⁰¹, and submitted her resignation from the authority on January 14, 2008.

iv) Lawyers with a salary mandate

The lawyer with a salary mandate LM6 worked at the Ministry of Environment, Physical Planning, and Public Works, and was a PhD holder specialised in Law on spatial and urban planning. She was appointed Deputy Ombudswoman in June 27, 2003. However, she submitted her resignation after her appointment as Associate Professor at the University of Thessaly in 2005. In 2009, she was appointed Associate Professor at the Department of Political Science and Public Administration of Athens University. Her institutional involvement comprises the following: Legal Collaborator at the Worker’s Housing Organisation (1988), member of the Scientific Council of the National Centre for Public Administration (1998-2003), member of the Committee of Experts of the Economic and Social Committee who contributed to the study “Environment, Spatial and Urban Planning” (2008). As for her scientific involvement, apart from the already mentioned tenured positions in Universities, she was member of the teaching staff under contract at the University of Thessaly (1994-1997), and Panteion University of Political and Social Sciences (post-graduate programme/1999-2001 and undergraduate programme /2000-2001). She was also member of the teaching staff under contract at the Department of Local Authorities and Regional Development of the National School for Public Administration (1999-2003). As for her financial and institutional involvement, she was appointed President of the Management Board of the National Centre for the Environment and Sustainable

⁴⁰⁰ The Annual Reports of the Greek Ombudsman for the years 2003, 2004, 2005, and 2006, available at: <http://www.synigoros.gr/annual03/10pararthmata.pdf>, http://new.synigoros.gr/resources/docs/618_09-parartimata-bios.pdf, http://new.synigoros.gr/resources/docs/634_10_parartima_bs.pdf, http://new.synigoros.gr/resources/docs/17_annual_p_biografika_06.pdf, date of access: 27.12.2010.

⁴⁰¹ The Annual Report of the Greek Ombudsman for the year 2007, available at: <http://new.synigoros.gr/resources/docs/11bparartimaviografika.pdf>, date of access: 4.6.2011.

Development (EKPAA) with a three-year mandate, in 2010. However, she submitted her resignation from the position of the President on 24.8.2010, and was reappointed as member of the management board (13.9.2010). Her involvement in public life is broad (I+FI+S)⁴⁰², whereas the intensity of involvement is medium (10 times) almost reaching the high scale⁴⁰³.

As for the functional accumulation status⁴⁰⁴, which is incompatible with the capacity of a Deputy Ombudsperson, LM6 was member of the management board⁴⁰⁵, representing the shareholders, of the Public Enterprise for Urban Planning and Housing – DEPOS S.A. during her mandate as Deputy Ombudswoman⁴⁰⁶.

d. The Hellenic Authority for Communication Security and Privacy

i) University Professors

University Professors represent 45% (9 of 20) of the total number of the members in the authority, and their career paths are quite rich⁴⁰⁷. The case of the member U16 is characteristic in terms of broadness (P+I+F+FI) and intensity (16 times) of involvement. A short summary of his career path is presented hereafter. There is evidence for party affiliation. First, he was appointed alternate member of a Committee for the procurement of goods of important economic or technological value representing the party of PASOK. He was proposed by the President of PASOK following the document 122a/10.7.2000⁴⁰⁸. The committee was competent for the procurement of radio communications systems at the Greek Police. Moreover, on 25.11.2007, by decision of the President of PASOK, Georgios Papandreou, he was appointed as member of the Working Group of Scientists of the Secretariat of the Central Organisational Committee for the preparation of the 8th Conference of PASOK that took place on March 13-16, 2008⁴⁰⁹. As for his academic career, he had a tenured position at the University of the Aegean. He was elected Vice-Rector (1.9.2000-31.8.2003), and Rector (1.9.2003-31.8.2006) of the said University, whereas on May 2, 2007 he was transferred to the University of Piraeus. He became regular member of the Hellenic Authority for Communication, Security and Privacy on June 12, 2008, and submitted his resignation on November 18, 2009 after his appointment as Secretary General of the General Secretariat of Communications at the Ministry of Infrastructure, Transports, and Networks under the PASOK Government. As for his institutional and financial involvement, apart from the positions of Vice-Rector and Rector of the University of the Aegean, he was appointed as member of the Hellenic Quality Assurance Agency for Higher Education, an independent

⁴⁰² See Appendix 8, table 7.

⁴⁰³ See Appendix 8, table 8.

⁴⁰⁴ See Appendix 8, table 9.

⁴⁰⁵ Appointment published in the Government Gazette, vol. B, no 693, 6.6.2002, vol. B, no 547, 7.5.2003. The anonymous public enterprise DEPOS S.A. was abolished (Law 3895/2010).

⁴⁰⁷ See Appendix 8, table 10.

⁴⁰⁸ G.G. vol. A, no 221, 13.10.2000.

⁴⁰⁹ Source: The Official Website of PASOK-France, available at: <http://ne.pasok.gr/negallias/?p=13>, date of access: 17.6.2010

authority, representing the scientific field of Sciences and Informatics (1.9.2006-12.6.2008)⁴¹⁰.

His institutional involvement comprises participation in the special legislative drafting committee regarding the strengthening of the institutional framework on the functioning of the Hellenic Authority for Communication, Security and Privacy (ADAE), and the amendment of the law 3115/2003. Moreover, he played a key role in the general management of the Operational Programme for Education and Initial Vocational Training (EPAEK) of the Ministry of National Education and Religious Affairs⁴¹¹. Indeed, he was appointed many times as President of Advisory Committees and member of committees constituted by the Ministry of National Education and Religious Affairs under the New Democracy government. He was also member of committees and working groups constituted by other ministries. As for his financial involvement, he was President and member of procurement committees.

The University Professors' institutional involvement comprises participation in i) legislative drafting committees (U6, U17) ii) various working groups, committees or councils constituted by Ministries or other legal persons of the public sector (U8, U6(5), U7, U8, U9, U14, U17, U19), ii) members of advisory bodies in public administration (U6, U9(2), U17(2)). Their financial involvement is noteworthy, and mainly concerns participation in procurement committees as Presidents (U6, U9, U14 U17) or members (U6, U7, U9(4), U14, U17). Moreover, the member U20 was member of the Technical Council of the University of the Aegean. The member U17 was advisor of the management of the Public Power Corporation on the development of its telecommunications activities and the establishment of TELLAS during 2000-2002.

The institutional and financial involvement comprises appointments in various agencies of the public sector. The member U19 was appointed to the following positions: member of the Management Board of the Greek Productivity Centre (1994-1996), member of the Management Board of the Hellenic Telecommunications and Post Commission 1995-2000, President of the Management Board of the National Accreditation Centre for Continuing Vocational Training and Accompanying Supportive Services 1997-2004, member of the Management Board of the Organisation for Vocational Education and Training 2001-2004. The member U9 was appointed President of the management board of the public anonymous company "Electronic Governance of Social Security (IDIKA S.A.) on April 21, 2008 under the New Democracy Government. According to the appointing ministerial decision there was no fixed mandate, and thus the appointment could be revoked by joint ministerial

⁴¹⁰ He had a four-year mandate, but it seems that he resigned since, immediately afterwards, he was appointed as regular member at the Hellenic Authority for Communication, Security and Privacy.

⁴¹¹ According to the Official Website of the Managing Authority of the Operational Programme, the Programme was "designed to aid Greece in meeting the challenges arising internationally due to the development of innovative technologies. This Programme aims at turning these challenges into opportunities for development and improvement of the quality of life. It is one of the Third Community Support Framework's 24 Operational Programmes (2000-2006) in Greece, and is co-financed by the European Social Fund, the European Regional Development Fund and national resources. The role of Managing Authority is to follow and apply Law 2860/2000, so that the efficiency, the rationality and the transparency of the operational programme during its implementation are ensured". Information available at: <http://www.epeaek.gr/epeaek/en/home.html>, date of access: 5.6.2011.

decision. Indeed, after the national elections of 2009 there was revocation of his appointment by the joint ministerial decision no Φ.80350/18707/135⁴¹². The member U17 was member of the Management Board of the Hellenic Telecommunications Organisation S.A (OTE) (1996-1999), and member of the management board of the anonymous company under the name “Anonymous Greek Company for the provision of internet products and services” with the distinctive title “OTEnet”, a subsidiary company of the Hellenic Telecommunications Organisation, (1998-1999).

As for their scientific involvement, U9 was member of the Management Board of the Research Academic Computer Technology Institute, U14 adjunct professor at Athens University (2002-2005), and the University of Peloponnese (2002-2005) and U20 gave courses at the National Centre of Public Administration.

To summarize, the university professors’ career paths are rich, and thus their involvement in public life is quite broad since two of them participate in four dimensions of the index (I+F+FI+S, P+I+F+IF), two participate in three dimensions (I+F+S, I+F+IF), three participate in two dimensions (I+F, I+IF, F+S), and only one in one dimension (I)⁴¹³. Accordingly, the intensity of their involvement in public life ranges from low to medium with only one case of high intensity⁴¹⁴.

As for their accumulation status, University Professors may be on active service, full-time or part-time employed, and simultaneously serve as regular or alternate members in the authority. During their term of office the University Professors’ involvement is quite broad⁴¹⁵. More specifically, their institutional involvement (U6(4), U9(3), U8, U16, U17) comprises participation in i) legislative drafting committees ii) various working groups, committees, councils, or project management groups constituted by Ministries or other legal persons of the public sector and iii) advisory bodies in public administration. The members U6 and U9 participate in procurement committees, whereas U20 gave courses at the National Centre of Public Administration. Finally, U6 was elected Alternate President of the Department of Electrical and Computer Engineering of the National Technical University of Athens (1.9.2004-31.8.2006) during his term of office.

ii) Free-lance Professionals

Free-lance professionals, who represent 25% (5 of 20) of the members, present great interest due to their direct or indirect political involvement. The President of the authority, FP1, was first appointed in 2003 whereas his appointment was renewed in 2008. We have no direct evidence for party affiliation. He is a mechanical-electrical engineer, and his professional career before his appointment to the authority seems to be the typical case of a partisan appointee coming from the party of PASOK. He spent sixteen years of his professional life to positions in the public sector without taking into consideration his mandate in the Hellenic Authority for Communication Security and Privacy. More specifically, he was appointed President of the Management Board of the Hellenic Railways Organisation (OSE) during 1981-1985 and 1987-1989,

⁴¹² Government Gazette, vol. YODD, no 241, 13.7.2010.

⁴¹³ See Appendix 8, table 10.

⁴¹⁴ See Appendix 8, table 11.

⁴¹⁵ See Appendix 8, table 12.

Governor (1981-1985) and Director General (1985-1988) of the said organisation⁴¹⁶ under the PASOK governments. In 1995 he became the first President of the Management Board of the Hellenic Telecommunications and Post Commission appointed by ministerial decision under the PASOK government (1995-2000). Finally, he was once more appointed President of the Management Board of the Hellenic Railways Organisation (26.6.2000-30.1.2003) under the third Simitis' government.

Another characteristic case of political affiliation is that of the alternate Vice-President FP3, who is a lawyer. He was elected three times Mayor of the Municipality of Nea Philadelphia – a suburb of Athens- supported by the party of PASOK, and served from 1990 until 2002. He also ran for Mayor in the Municipal Elections of 2002, and was elected Municipal Councillor. By the time of his appointment to the authority on August 1, 2003, he was Municipal Councillor. However, he submitted his resignation from the authority almost a year after. He ran for Mayor in the Municipal elections of 2006, and was elected Municipal Councillor, whereas in the Municipal and Regional Elections of 2010 he ran for Municipal Councillor and succeeded in being elected. He became President of the Municipal Council. He was always supported by the party of PASOK. Finally, he was member of the management board of one of the biggest football teams in Greece, the Athletic Union of Constantinople, more commonly referred to as AEK (1995-1996, 2000-2001).

We have direct and indirect information on the party affiliation of the regular member FP10, and his alternate, FP11, who are lawyers. The regular member FP10 is a sympathizer of the Communist Party of Greece since he signed, together with a group of lawyers of Athens⁴¹⁷, the Declaration of Support to the Greek Communist Party in the National Elections of 2007. As for his alternate, FP11, she ran for Prefectural Councillor in the Prefectural Department of Athens with the Communist Party of Greece in the Municipal and Prefectural Elections of 1998⁴¹⁸. She also signed, together with a group of lawyers of Athens, the Declaration of Support to the Greek Communist Party in the National Elections of 2007. FP11 was member of an NGO. She was member of the Chair of the Greek Women Federation⁴¹⁹ (OGE). OGE⁴²⁰ was founded in 1976 and has a communist ideological orientation since “*it is the only Women's Organisation promoting the class character of women's inequality*”

The career path of the alternate member FP18, a lawyer with a PhD in European Law, is interesting. He started his career as Legal Secretary⁴²¹ (Clerk Referendaire) at the

⁴¹⁶ Source: Prodromos Mantzaridis, *Brief History of the Greek Railways*, Second Edition, Greek Railways Organisation, 1996.

⁴¹⁷ The list of signatories was published in the Newspaper Rizospastis in the issue of August 5, 2007
Source: Newspaper Rizospastis, available at:
<http://www1.rizospastis.gr/wwwengine/story.do?id=4155329>, date of access: 17.5.2010

⁴¹⁸ Source: Newspaper Rizospastis, available at:
<http://www2.rizospastis.gr/wwwengine/story.do?id=3741391>, date of access: 17.5.2010

⁴¹⁹ Source: Newspaper Rizospastis, available at:
<http://www2.rizospastis.gr/wwwengine/story.do?id=3741391>, date of access: 17.5.2010

⁴²⁰ Source: OGE, available at:
http://www.oge.gr/index.php?option=com_content&view=article&id=46&Itemid=34, date of access: 20.1.2011

⁴²¹ Schermers and Waelbroeck (2001) describe the post as follows: “Until 1979, each judge and advocate-general was supported by the legal secretary (or référendaire), a qualified lawyer charged with helping “his” judge or advocate-general prepare the cases. During 1979, their number was

Court of First Instance (CFI) of the European Communities (renamed the General Court of the European Union), Luxembourg (2/2001-7/2004), and the Court of Justice of the European Communities -renamed the Court of Justice of the European Union- (7/2004-6/2008). He was elected alternate member of the authority on August 28, 2008. Meanwhile, on April 2009 he became alternate member of the NATO Board of Appeals. According to his Curriculum Vitae⁴²², he worked as a lawyer at the Law firm Vassilopoulos and Partners, Athens (7/2008 to 11/2009) which seems to be incompatible with his capacity as member of the authority according to article 4, par. 3 of the law 3115/2003. He submitted his resignation from the authority on September 11, 2009. A few days later, that is, on September 16, 2009 he was appointed Director of the Political Bureau of the Caretaker Minister of the Interior, S. Flogaitis, whereas his mandate expired ipso jure on October 6, 2009.

On November 20, 2009 he was appointed Head of the Bureau for the Support of Good Legislation at the General Secretariat of the Government by the Prime Minister Georgios Papandreou. The Prime Minister revoked his appointment on June 2, 2010. Interestingly enough, the Greek Government proposed the appointment of FP18 as a member of the General Court of the EU on January 22, 2010⁴²³. According to the newspaper Eleftherotypia⁴²⁴, the Ministry of Foreign Affairs had already proceeded to an open procedure for the submission of candidacies for the position, and three candidates were selected. However, the Ministry of Foreign Affairs finally announced the candidacy of FP18 as a result of political pressure. The panel set up by article 255 of the Treaty on the functioning of the European Union gave a negative opinion on the Greek candidacy, and the Ministry of Foreign Affairs once more proceeded to the announcement of the position. This time the Greek Government proposed Dimitrios Gratsias, Councillor at the Council of State. The panel of article 255 approved his candidacy and gave an opinion on his suitability to perform the duties of Judge of the General Court⁴²⁵.

gradually increased so that since January 1980 all judges and advocates-general had two legal secretaries. In 1986, the Council has accepted the creation of a third post of legal secretary for each judge and advocate-general. The judges at the Court of First Instance on the other hand each have two legal secretaries. The role of these legal secretaries at the Court of Justice is similar to that of the law clerks at the United States Supreme Court. Some legal secretaries have been permanently been appointed from the early days of the Court. Recently, short-term appointments of about three to four years have become more customary. As the post offers an excellent training for younger lawyers, the member states profit from appointments of a short duration which brings back lawyers trained in European Law to their national states”.

⁴²² Source: Cover Note to the Secretary General of the Council of the European Union for the Greek candidacy to the General Court of the European Union, Curriculum Vitae of C.V. (FP18), Available at: <http://register.consilium.europa.eu/pdf/en/10/st06/st06125.en10.pdf>, date of access: 12.1.2011

⁴²³ Cover Note of the Council of the European Union dated February 9, 2010 addressed to the Secretary-General of the Council of the European Union containing the candidacy of FP18 to the General Court of the European Union, Curriculum Vitae of C. V. (FP18) , available at: <http://register.consilium.europa.eu/pdf/en/10/st06/st06125.en10.pdf>, date of access: 12.1.2011

⁴²⁴ Newspaper Eleftherotypia, Saturday, October 16, 2010, available at: <http://www.enet.gr/?i=news.el.article&id=214092>, date of access, 12.1.2011.

⁴²⁵ Gratsias’ appointment was published in the Official Journal of the EU (L278/29, 22.10.2010).

iii)High-ranking civil servants

We have information only for two of four high-ranking civil servants. The members CS12 and CS15, former executives of the Hellenic Telecommunications Organisation (OTE), participate in the institutional-financial dimension. CS12 was appointed Chief Executive Officer (CEO) of the anonymous company under the name “Anonymous Greek Company for the provision of internet products and services” with the distinctive title “OTEnet⁴²⁶”, a subsidiary company of the Hellenic Telecommunications Organisation, (1998-1999). CS15 was member of the Management Board of the Greek Company of Telecommunications through Submarine Cables SA (ELLTELKA)⁴²⁷, another subsidiary company of the Hellenic Telecommunications Organisation (1994).

iv) Judges

Judges are the less represented professional category in the authority (2 of 20). Their involvement is neither broad nor intense⁴²⁸. J4 had institutional involvement since he participated as alternate member in the council for citizenship constituted by the ministry of the Interior, and was also alternate member of the Court for Mistrial for the year 1996. J5 had financial involvement since he was appointed as member of the Committee for the procurement of goods of significant financial or technological value. The Committee was competent for the procurement of railcars for the Greek Railways Organisation.

⁴²⁶ The Company is supervised by the Ministry of Infrastructure, Transport and Networks
Source: Official Website of the Ministry, available at: <http://www.yme.gr/index.php?tid=489>, date of access: 20.1.2011

⁴²⁷ The Company is supervised by the Ministry of Infrastructure, Transport and Networks
Source: Official Website of the Ministry, available at: <http://www.yme.gr/index.php?tid=489>, date of access: 20.1.2011

⁴²⁸

5. Conclusion

Principal-agent theorists have always warned that the concepts of agency autonomy and control by political decision-makers may become tricky in the study of independent regulatory agencies (Thatcher, 2005). Indeed, this was a fact that we took seriously into consideration in our attempt to approach the issue of the degree of the control that may be exercised by the political decision-makers -in their double role as principals and agents- over the independent authorities in regulation inside government through the members' appointments. Thatcher (2005) considers that political decision-makers may use party politicization of the appointments as a way to control IRAs. In his paper, he reached to the conclusion that the members appointed to the IRAs under research were not party activists. As for the provenance of the majority of the IRAs members he states that *"... IRA members are drawn from similar groups to elected politicians – for example, the grands corps and ministerial cabinets in France and the professori in Italy. Many IRA members have had lengthy experience of public life, albeit outside elected office, having held senior posts in or close to government or served on public committees and commissions"*.

However, why should publicly known party partisans be considered more loyal and generally closer to the preferences of the political decision-makers than others who have assumed roles in public life as experts? Indeed, the idea of demonizing party politicization as a means of postdelegation control was rejected both in discussions in parliament on the draft law on the establishment of the National Council for Radio and Television, and theory. More specifically, the minister of the Presidency of the Government who introduced the draft law emphasized that the political parties nominated individuals without assigning their representation to them. He explained that the political parties would be judged upon their ability or disability to select individuals competent to operate under a high degree of independence. On the other hand, this view was also popular in theory *"since the intervention of the latter [the political parties] starts and ends at the stage of nomination"* (Oikonomou, 1999). Indeed, Nicolaos Alivizatos⁴²⁹, recalls: *"I still remember how surprised were my perfectly benevolent interlocutors – the former high-ranking judge and then competent Minister of the Zolotas government included"*⁴³⁰ - *when, as a member of the first composition of the National Council for Radio and Television, I was claiming that I am neither a representative of the party that had nominated me, nor anybody else's"*.

But if we excluded party patronage as a criterion for postdelegation control, what could substitute for it? The cynical statement of the MP of the Communist Party of Greece, A. Skyllakos, during discussions in Parliament⁴³¹, might shed light on the

⁴²⁹ Abstract from N. Alivizatos' s book "The uncertain modernisation and the blurry constitutional revision" p. 115

⁴³⁰ He refers to Konstantinos Stamatis who was Prosecutor during the trial of the junta. He was a university professor specialised in penal law, and Prosecutor of the Hellenic Supreme Court of Civil and Penal Law. He was appointed Minister of Justice under the Grivas' Caretaker Government (12.10.1989-23.11.1989), and the Zolotas' Oecumenical Government (23.11.1989-11.4.1990).

⁴³¹ Minutes of the fourth Session of the Committee on the revision of the Constitution of 2001 regarding article 101A. Source: Minutes of Sessions and Report of the Committee on the Revision of the Constitution, Seventh Revisional Parliament, Athens, 2000.

issue. More specifically, the MP stressed that the truth was that the two big political parties, PASOK and New Democracy, intended to cover their practices through the saga of personalities. He asked the MPs of the two big parties to tell him which personality did not possess a political identity. He addressed himself to the MPs of PASOK, and wondered whether their party had ever appointed as president or head of an independent authority a personality that they did not believe that he would support the predominant policy or, in any case, that he would be close to PASOK in most issues. He said that they should stop fooling each other since they clearly appointed either people from the political parties, or personalities with high standing whose views and resistance against pressures were well known to the politicians. He argued that they took into consideration all those issues, and then they proceeded to the final selection. This statement actually deconstructs the saga of independent-minded experts, and indirectly introduces the idea of trust of the political system in the appointees.

The construction of the involvement in public life index serves this purpose. The main goal was to follow the members' career paths through appointments in the public sector before, during, and after their term on the authorities. The results of the research prove that the members were not unknown to the political system. On the contrary, their presence in public life is intense and broad, thus covering various dimensions of the involvement in public life index. In other words, the same close circle of people that dominate public life colonised the authorities. It is noteworthy that on many occasions, when the members resigned from the authorities, they were immediately appointed to other important governmental or other public positions. Moreover, reappointments and lengthy tenures could also be interpreted as tactics indicating trust in certain appointees. As for the issue of the low relational distance between regulators and regulatees, that is, the members' provenance from the public sector, we consider that it would be of minor relevance, if it were not combined with the members' close ties to public life. On the other hand, if we intend to discuss party politicisation, the research shows that there are signs of all-party representation in the authorities. And this finding becomes the empirical proof of what all the MPs admitted during discussions of the committee on the revision of the Constitution⁴³² regarding the appointments clause, namely that there would be informal consultations among the political parties before the submission of the final proposal to the Conference of Presidents.

A short article published in the Newspaper "Kathimerini" on April 4, 2011⁴³³, probably confirms the idea of interparty collusion. The article gave the information that the Prime Minister and the leader of the major opposition had agreed on the issue of the replacements of the resigned Ombudsman and the President of the Hellenic Data Protection Authority. According to their agreement, the new Ombudsman would be supported by the party of PASOK, whereas the President of the Hellenic Data Protection Authority would be proposed by the party of New Democracy. Indeed, on

⁴³² Minutes of the fourth Session of the Committee on the revision of the Constitution of 2001 regarding article 101A. Source: Minutes of Sessions and Report of the Committee on the Revision of the Constitution, Seventh Revisional Parliament, Athens, 2000.

⁴³³ Source: the Article of the newspaper "Kathimerini" "Conversation over the Greek Ombudsman", April 2, 2011, available at: http://news.kathimerini.gr/4dcgi/_w_articles_politics_2_02/04/2011_437928, date of access: 12.6.2011.

May 19, 2011, the Deputy Ombudswoman U9 was proposed by the Speaker of Parliament, and was finally selected as the Greek Ombudswoman by the Conference of Presidents⁴³⁴. She would serve for the remainder of the mandate of the resigned Ombudsman, that is, until 20.2.2012. On July 14, 2011 the Conference of Presidents selected the new President of the Hellenic Data Protection Authority⁴³⁵, an Honorary Councillor of the Council of State who seems to have been affiliated with the party of new Democracy. He was twice appointed to political posts under the New Democracy Government. More specifically, he was appointed President of the Central Legislative Drafting Committee⁴³⁶ (2004-2005), and Head of the Legal Bureau of the General Secretariat of the Government⁴³⁷. Therefore, if the report is true, there are signs for cross party collusion regarding nominations in the authorities.

The tactics followed by the political decision-makers regarding the replacement of the resigned members or new appointments due to the expiration of the members' mandates are quite puzzling. The phenomenon of long delays in replacements and new appointments might probably be attributed to the time-consuming consensual procedure among the parliamentary forces. Nevertheless, such practices jeopardize the proper function, and the legality of the decisions of an authority. Not incidentally, the Decision 1098/2011 of the Council of State judged that long delays in the members' replacement were contrary to the demands of the Constitution⁴³⁸. Interestingly enough, the members of the authorities never expressed concerns over practices that affected the legal constitution of an authority.

The privileged double-faceted functional accumulation regime probably facilitates us to jump to the conclusion that the members of the four constitutional authorities under research constitute an ubiquitous elite. University professors, the predominant professional category in the authorities, enjoy the absolute form of the privilege, namely both of its facets. However, this favourable treatment might impact on the effectiveness of the authorities, and lead to the further oligarchisation of public life. Thus, in an era of expertise and professionalization of the bureaucracies, the constitutional independent authorities seem to undermine themselves, thus operating under de-professionalized conditions.

⁴³⁴ See appointment published in the Government Gazette vol. YODD, no 155, 2.6.2011.

⁴³⁵ Government Gazette, vol. YODD, no 255, 9.8.2011.

⁴³⁶ Government Gazette vol. B, no 1490, 1.10.2004. He submitted his resignation in 2005 (Government Gazette, vol. B, no 1217, 31.8.2005).

⁴³⁷ We have not located his appointment in the Government Gazette. However, we have indirect information that he has served as Head of the Legal Bureau of the General Secretariat of the Government (see Government Gazette, vol. B, no 373, 16.3.2007).

⁴³⁸ The resigned President of the Hellenic Data Protection Authority, J33, in his farewell speech on May 10, 2011, in his capacity as member of the legislative drafting committee on the amendment of the law 3051/2002 on the independent constitutional authorities, announced the intention of the committee to amend the relevant clause on the replacement of the members of the authorities after the expiration of their mandate. He proposed that the term of office would be ipso jure extended for six months until the appointment of the new member. Source: The Official Website of the Hellenic Data Protection Authority, Press Releases, available at: <http://www.dpa.gr/APDPXPortlets/htdocs/documentSDisplay.jsp?docid=155,237,78,111,56,180,39,148>, date of access: 12.5.2011

Chapter 3

The Internal Hierarchical Relationship: The Members of the Constitutional Independent Authorities and their Personnel

Testing the Credibility and Transparency of the Personnel's Recruitment Strategies

1. Introduction

The diachronic presentation and the subsequent qualitative assessment of the institutional design of the recruitment policies applied in the selection of the personnel of the four independent constitutional authorities as well as the identification of the agents-employees, who were finally selected to serve in these authorities by their principals-members, constitute the second principal-agent dyad, namely, the internal hierarchical relationship. Before the promulgation of the law 3812/2009 that incorporated all the independent authorities into the general recruitment system applied in the public sector, each one of the authorities under research enjoyed absolute autonomy in the selection of their personnel as prescribed in their founding laws, and the relevant general clause of the executive law 3051/2002 on the independent constitutional authorities.

According to Gilardi's independence index (2002), the autonomy of independent agencies in the selection of their personnel corresponds to a high degree of formal independence of the regulators from the political decision-makers. However, we considered that the parameter of the legal framework on the personnel's recruitment as well as its application were crucial in the case of the four constitutional independent authorities. Indeed, the preliminary research on the legislation on recruitment policies and its application through empirical evidence proved the necessity of a closer study of the institutional design instead of directly proceeding to the simple elaboration and assessment of the collected data. The qualitative assessment of the institutional design presupposes a test of the compatibility of the recruitment clauses with the constitution, administrative law, and jurisprudence. Cases of distortions in the recruitment clauses could be interpreted as legislative manipulation. In other words, a distorted institutional design drafted by the political decision-makers serves as an *ex ante* control of the personnel of the authorities. Under such circumstances, the burden of its application falls on the members of the authorities.

The unit is divided into two parts, whereas an explanatory text on the applied methodology precedes the analysis. The first part is dedicated to the presentation and qualitative assessment of the recruitment clauses. A short explanatory guide on some basic concepts and principles in Greek public administration, that is, the legal definition of the public sector, the categories of personnel in the public sector in relation to their working status, and the civil servants' mobility rules (transfers, secondments, reclassifications) facilitates the understanding of the construction of the institutional design presented in the main theoretical part (Appendix 1). The recruitment policies adopted by the legislator in the four constitutional independent authorities are as follows: secondments, transfers, direct hirings, and transfers through

secondments. The personnel are divided into two main categories: administrative and scientific.

The second part comprises the elaboration and final presentation of the empirical data. The construction of 12 databases by category of personnel and type of recruitment by authority, serve as the main source of information regarding the personnel of the authorities from the date of their establishment until December 31, 2010⁴³⁹ (Appendices 2, 3, 4, and 5). The empirical data were mainly derived from the government gazette, the annual reports, the programme “Clarity” (diavgeia), and the google search engine. The content of each database is presented at the text on methodology. Furthermore, we constructed two indexes for the scientific personnel of the authorities following the technique we applied in the case of the members of the authorities in the delegatory relationship, that is, i) an involvement in public life index, and ii) a time-dimension involvement in public life index. These indexes serve as a source of information in order to detect the scientific personnel’s involvement in public life, and locate their career paths through time, namely, before their appointment, while in service, and after their resignation or revocation of appointment, if such cases exist. In cases of direct hiring, the public announcements, which were published in the government gazette or were still available on the internet, are presented and commented in relation to the selection criteria, and the methods of the candidates’ assessment, that is, the implementation of grading systems⁴⁴⁰ for the classification of candidates.

Three issues are discussed in this unit. First, we assess the credibility of the institutional design on the recruitment of the personnel in relation to the constitution, administrative law, and jurisprudence, and test its final implementation, a process which might lead to certain conclusions in relation to the legality of members’ administrative action. Second, we approach the credibility and impartiality of the autonomous selection system through the assessment of the selection criteria, and the application of grading systems for the evaluation and classification of candidates. Third, we explore the personnel’s profiles in relation to the following aspects: level of education, specialization, grades, agencies of provenance in the case of transfers and secondments, previous appointments in the public sector, gender distribution, in-service mobility, resignations or revocation of appointments, new appointments, secondments, and transfers in the public sector, involvement in public life, and functional accumulation.

⁴³⁹ Our research ends on December 31, 2010.

⁴⁴⁰ We apply the term grading system in the sense of awarding points for each one of the selection criteria.

2. Methodology

The Government Gazette, in print edition and uploaded on the official website of the National Printing Office, served as the main methodological tool for a comprehensive chronological reconstruction of a map of the recruited administrative and scientific personnel in the four constitutional independent authorities since their establishment. Apart from the Government Gazette, we drew complementary information from other sources, namely the annual reports, the “programme clarity (diavgeia)⁴⁴¹”, and the google search engine. The period under research extends from the establishment of each constitutional independent authority until December 31, 2010.

After the collection of all the data, we constructed databases in excel sheets by category of personnel, that is, administrative and scientific, and type of recruitment⁴⁴² for each one of the four constitutional independent authorities under research as shown in the Table hereafter.

List of databases by category of personnel and type of recruitment by authority

<i>Constitutional Independent Authority</i>	<i>Category of personnel and type of recruitment</i>
Supreme Council for the Selection of Personnel	Transferred administrative personnel Directly hired administrative personnel Directly hired scientific personnel
Hellenic Data Protection Authority	Transferred and directly hired administrative personnel Directly hired scientific personnel
The Greek Ombudsman	Seconded and transferred administrative personnel Directly hired administrative personnel Seconded and directly hired scientific personnel Personnel of the Secretariat of the Ombudsman and Deputy Ombudsmen
Hellenic Authority for Communication, Security, and Privacy	Directly hired administrative personnel Directly hired scientific personnel Directly hired heads of Directorates and the head of the independent department of International Collaborations and Public Relations Directly hired personnel of the legal service

More specifically, the databases on the transferred administrative personnel contain the following fields: the year of transfer, the volume and number of the issue of the government gazette, the date of publication, the initials of the names and surnames, the working status, grade, category and branch in the releasing agency, the name and legal status of the releasing agency, the supervising ministry, the employees’ working status, position in the organisational chart, grade, category and branch in the receiving agency, competent organs for the issue of the transfer decisions, assessment of the legality of the transfer, in-service mobility, previous positions in the public sector, membership in various committees of the public sector, transfers, secondments or new appointments in the public sector.

⁴⁴¹ The law 3861/2010 provides that all the agencies of the public sector have the obligation to upload all their decisions and acts on the internet through the programme “Clarity” (Diavgeia) coordinated by the Ministry of the Interior, Decentralisation, and Electronic Governance.

⁴⁴² We have identified four recruitment strategies: transfers, secondments, direct hiring, and transfers through secondments.

In the case of the administrative personnel of the Greek Ombudsman, the annual reports give also information on the seconded employees⁴⁴³, whereas some of them were afterwards transferred to the authority following relevant legislative regulations. Therefore, the relevant database contains the following additional fields: whether the employee is seconded, whether the secondment was converted to a transfer, the year of revocation of the secondment. The personnel of the Bureaus of the Ombudsman and the Deputy Ombudsmen constitute a special category of administrative personnel. They are either directly hired or seconded from other agencies of the public sector. The relevant database contains the following information: the year of secondment or direct hiring, the initials of the names and surnames, whether they are seconded or directly hired, their working status and agency of provenance, the Bureau where they serve, the year of retirement or revocation of the secondment, the level of education, previous positions in the public sector, new appointments after their retirement in the public sector.

The databases on the directly hired administrative personnel contain the following fields: the year of appointment, the volume, the number of the issue of the government gazette, the date of publication, the initials of the names and surnames, the working status, level of education, grade, category and branch, the public announcement for the submission of candidacies, in-service mobility, previous position in the public sector, resignation and new positions in the public sector. The database on the administrative personnel of the Hellenic Data Protection Authority unifies the transferred and newly hired personnel, whereas the fields are accordingly adjusted.

Special databases are also constructed for i) the directly hired heads of the directorates and the independent department of international collaborations and public relations, and ii) the directly hired personnel of the legal service of the Hellenic Authority for Communication, Security, and Privacy. These databases contain the following fields: the year of appointment, the volume, the number of the issue of the government gazette, the date of publication, the initials of the names and surnames, the working status, the subject area of the position, the level of education, resignation or denial of appointment, replacement, previous position in the public sector, new appointment in the public or private sector, member of various committees of the public sector before, during or after the appointment, party affiliation, membership in NGOs.

The empirical data on the scientific personnel were used for the creation of databases which were afterwards re-elaborated for the construction of an involvement in public life index, and a time-dimension involvement in public life index similar to those presented in the previous unit regarding the members of the authorities. The databases on the directly hired scientific personnel contain the following fields: the year of appointment, the volume, and number of the issue of the government gazette, the date of publication, the initials of the names and surnames, the working status, the specialty or the subject area of the position, the level of education, the grade, in-service transfers, secondments to other agencies of the public sector or other European agencies, the number of the public announcement (if published in the government gazette), resignation or denial of appointment, previous post in the public sector,

⁴⁴³ Secondment decisions are not published in the government gazette with the exception of secondments to governmental organs.

membership in various committees of the public sector before, during or after the appointment, new appointment in the public sector, party affiliation, membership in NGOs.

In the case of the special scientific and auxiliary scientific personnel of the Greek Ombudsman, all the data were derived from the annual reports since the appointment decisions were not published in the government gazette. Furthermore, the annual reports give also information on the seconded scientific personnel⁴⁴⁴ from other agencies of the public sector. Therefore, the relevant database contains the following additional fields: the department where the employee serves, transfers to another department, whether they are graduates of the National School of Public Administration, whether they serve on secondment, the agency of provenance, the supervising ministry.

The involvement in public life index (Appendix 6) contains the scientific personnel's career paths in public life, as derived from the sources, and is divided into six thematic dimensions: political involvement, institutional involvement, financial involvement, institutional and financial involvement, scientific involvement, and civil society involvement. On the other hand, the scientific personnel's time-dimension in public life index (Appendix 7) constitutes a version of the involvement index presenting the career paths before, during, and after the personnel's appointment, that is, after their resignation or denial of appointment.

The empirical data contained in the databases and the indexes were appropriately processed and are presented in the empirical part of the unit.

⁴⁴⁴ Secondment decisions are not published in the government gazette with the exception of secondments to governmental organs.

3. The institutional design of the recruitment policies adopted by the four constitutional independent authorities and analysis of the empirical data

a. The Supreme Council for the Selection of Personnel

A. The legal framework on the recruitment policies

I. The administrative personnel

The administrative personnel of the Secretariat of the Supreme Council for the Selection of Personnel are permanent civil servants. The Presidential Decree 124/1994 regulated all issues related to the organization of the Secretariat, the competences of its services, the number of the personnel's positions, and their distribution by category and branch (specialty). The Presidential Decree 124/1994 has been amended six times⁴⁴⁵ since 1994. It initially established 27 permanent positions, whereas the last amendment in 2009 provided for 261 permanent positions.

Two strategies were adopted in relation to the recruitment of the administrative personnel of the Secretariat. The recruitment policy followed from the establishment of the authority in 1994 until 2004 was based on transfers, and secondments without time limitations. From 2004 onwards, a combination of recruitment policies was introduced, namely, transfers and secondments, and direct appointments. However, it should be noted that the last public announcement for transfers took place in 2004.

i. Transfers and secondments

The founding law 2190/1994⁴⁴⁶ of the Supreme Council for the Selection of Personnel set the administrative personnel's recruitment framework. Moreover, it introduced the innovation, uncommon with the rules set forth by the Civil Servants' Code regarding promotions, which provided for the transfer of civil servants with grade A coming from public services, public law legal entities or local government authorities to fill the vacant positions of director general, directors, and heads of departments on first implementation of the law. These positions could also be filled by direct appointment, in case they were not filled by transfer. The authority proceeds to a public invitation for the submission of candidacies by the interested employees or individuals. The transferred or the directly appointed candidates are selected upon decision of the Council in Plenum⁴⁴⁷. The concurrent opinion of the service council of the releasing agency is required.

On first implementation of the law, the same procedure was provided for the rest of the administrative personnel of the Secretariat, namely, either through transfers or direct appointments. However, according to the relevant clause, those who had

⁴⁴⁵ The following Presidential Decrees and Ministerial Decisions amended the initial Presidential Decree 124/1994 upon proposal of the Supreme Council for the Selection of Personnel in Plenum: Presidential Decrees, 179/1995, 165/1997, 255/1998, 31/2000, Ministerial Decisions no 42799/2003 and no 18983/2009.

⁴⁴⁶ Article 7 of the law 2190/1994.

⁴⁴⁷ The administrative act of the direct appointment is issued on the decision of the Minister of the Presidency of the Government, whereas transfers are issued upon a joint decision of the Minister of the Presidency of the Government, and the minister supervising the releasing agency.

experience especially in public services, local government agencies and public legal entities would be preferred⁴⁴⁸. In our opinion, it is far from clear that the clause is problematic, and raises legality issues in relation to its implementation. More specifically, the law 2190/1994 came to regulate the recruitment system in the public sector in general. On the other hand, the Supreme Council for the Selection of Personnel, as an independent authority, is a public service pertaining to the core of public administration. Thus, the personnel of the Secretariat are permanent civil servants according to the Presidential Decree 187/1994, as amended, containing the organizational chart of the Secretariat. Consequently, transferring employees on private law contracts of indefinite time from private law legal entities of the public sector to fill permanent positions of the organizational chart of the Secretariat would convert their working status, a conversion which is not permissible. It would be equally irregular to transfer employees on private law contracts of indefinite time from public services or public law legal entities. Finally, the article set age limits on transfers, that is, only employees under forty years of age could be transferred or appointed⁴⁴⁹.

A year after, the transfer system was amended⁴⁵⁰. The transfers were permitted without the concurrent opinion of the service council of the releasing agency, whereas the clause had retrospective force, namely, starting from the beginning of the operation of the authority on June 16, 1994. On the other hand, the transfers of judicial employees were equally permitted under the same preconditions. However, it set a limit on their number since no more than ten positions could be filled by judicial employees.

This amendment raised controversy in discussions in Parliament⁴⁵¹. The Civil Servants' Union (ADEDY) expressed its intense disagreement with the proposed measures through an announcement. The MPs of the opposition supported and shared these reservations. More specifically, the Union claimed that *“from this point of view we do not understand, and we are against regulations which seem to promote favouritism, bypass unified principles, and create a special regime of recruitment and operation, that is, transfers without the opinion of the releasing agency, secondments*

⁴⁴⁸ Par. 1 of article 14 of the law 2190/1994 defines the scope of implementation of the law, namely which agencies of the public sector fall under the ambit of the new recruitment system in the public sector, as well as the exemptions from the law. The clause reads as follows: “1. The following fall under the ambit of the provisions of Chapters A, B, and the present Chapter C: a. the public services; b. the public law legal entities; c. the organizations of local self-administration of all levels, the Central Union of Municipalities and Communities of Greece and the local unions of municipalities and communities included; d. the public enterprises and public organizations; e. the private law legal entities pertaining to the state or regularly subsidized, according to the provisions in force, by state funds by at least 50% of their annual budget or the state possesses at least 51% of their share capital; the private law legal entities pertaining to the bodies under the points b, c, d, and e legal entities or regularly subsidized by them by at least 50% of their annual budget, according to the provisions in force or their relevant statutes, or the above mentioned legal entities possess at least 51% of their share capital”. The paragraph was supplemented by par. 1, article 1 of the law 2527/1997. The Banks, whose President or Governor was appointed pursuant to the provisions of article 49A of the Standing Orders of Parliament as well as their subsidiaries anonymous companies, also fell under the ambit of the law.

⁴⁴⁹ The age limits were amended by article 20, par. 2 of the law 2738/1999, and thus the transferred or appointed should not exceed the age of forty-five.

⁴⁵⁰ The clause was amended and supplemented by article 1, par. 1 and 6 of the law 2349/1995.

⁴⁵¹ Minutes of Parliament on the draft law “Regulation of issues of the Supreme Council for the Selection of Personnel, and special issues on the personnel and function of public administration”.

without time limitations⁴⁵², and transfers of judicial employees”. The Deputy Minister of the Interior, Charalambos Kastanides (PASOK), explained that it was the Supreme Council for the Selection of Personnel that proposed the amendment regarding the omission of the opinion of the service councils of the releasing agencies due to the workload, and the new competences assigned to the authority. In his opinion, the time-consuming transfer procedure in force hampered the effective operation of the authority. The MP Kyriakos Spyriounis (PASOK) argued that the transfer of an employee to the Supreme Council for the Selection of Personnel should not be set under bureaucratic procedures, and mentality systems that depended upon one’s ideology, opposition mood, and selfish tendencies⁴⁵³.

The same regime of transfers, that is, without the opinion of the service council of the releasing agency, was also adopted in the case of the administrative personnel of the Greek Ombudsman⁴⁵⁴. Then, the Rapporteur of the Scientific Report of Parliament⁴⁵⁵ expressed reservations over the consistency of the clause with article 3, par. 4 of the Constitution providing that “*Civil servants may not be transferred⁴⁵⁶ without an opinion or lowered in rank or dismissed without a decision of a service council consisting of at least two-thirds of permanent civil servants*”. The Rapporteur argued that the jurisprudence of the Council of State has consistently judged that the purpose of the constitutional legislator was to safeguard the civil servants’ service status and career, thus offering them the major protection in cases of transfers, lowering of grade, and dismissal, and consequently these service changes may only take place upon decision of the service councils consisting of at least two-thirds of permanent civil servants. He stressed that the transfer is an extraordinary way of filling existent vacant positions, and thus there is a change in the category in which the employee belongs since he is dismissed from the position he possesses in the organisational chart, and is appointed to another position. Finally, he argued that taking into consideration the fact that the said clause of the Constitution explicitly provides for the formulation of an opinion –even a simple one- of the service council of the releasing agency, it is doubtful whether the clause of the draft law is consistent with the relevant clause of the Constitution.

Interestingly enough, two years before, the Scientific Report of Parliament⁴⁵⁷ on the draft law establishing the Supreme Council for the Selection of Personnel⁴⁵⁸, that is,

⁴⁵² The issue of secondments will be discussed later.

⁴⁵³ The MP insinuates that such behaviour is not unusual for the members of the service councils in public administration.

⁴⁵⁴ Article 5, par. 4 of the law 2477/1997.

⁴⁵⁵ The Scientific Report of Parliament on the draft law “The Greek Ombudsman and the Corps of Inspectors – Controllers of Public Administrative”, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 30.07.2010

⁴⁵⁶ The term transfer here refers to transfers to and from regional offices within the same service. This was a common phenomenon in the past, and civil servants always feared of unfavorable transfers because of their political beliefs.

⁴⁵⁷ The Scientific Report of Parliament on the draft law “Regulation of issues of the Supreme Council for the Selection of Personnel and special issues of the personnel and operation of public administrative”.

⁴⁵⁸ The draft law was entitled “Regulation of issues of the Supreme Council for the Selection of Personnel and special issues of the personnel and operation of public administration”.

the law 2190/1994, was conducted by the same Rapporteur. This time he expressed no reservations over article 1, par. 1 of the draft law regarding the measure of transfers to the Supreme Council for the Selection of Personnel without the opinion of the service council of the releasing agency. Interestingly enough, he stated that *“the transfer is a serious modification in the service status of a civil servant (theoretically it consists of two special acts, the dismissal of the employee from the position he possesses in the organisational chart . . . and his appointment to another position), and for this reason, if the transfer is compulsory and is not induced by the employee’s own initiative, the decision of the service council of the agency to which he belongs is required. In the case of article 1 of the draft law (as well as in the case of article 9 of the law 2266/1994) the issue of the protection of the employee is not posed since the transfer takes place under the initiative of the transferred (who submits an application for the transfer – article 7 par. 3 of the law 2190/1994 and article 1 par. 1 of the draft law). On the other hand, the guarantee of the orderly functioning of the releasing agency is safeguarded by the issue of the joint ministerial decision of the Minister of the Interior, and the competent Minister supervising the releasing agency”*. As for the Rapporteur’s last point about the ministers’ discretion to sign the joint ministerial decision in order to avoid disturbing the proper functioning of the releasing agency, the Supreme Council for the Selection of Personnel expressed a different view in its Annual Report for the year 2000⁴⁵⁹. It stated that the competent organ which decided upon the transfers was the Supreme Council for the Selection of Personnel in Plenum, and thus the joint ministerial decision simply vested the transfer decision with the formality of the administrative act which would be published in the government gazette. In other words, the transfer decision of the Council was binding for the competent Ministers who had no other option but to sign it.

As for the regulation regarding the transfer of judicial employees to the Supreme Council for the Selection of Personnel, it might be considered as unconstitutional. The judicial power constitutes a separate and distinct branch of government, and thus the service status of the judicial employees is contained in a separate part of the Constitution, part E. According to article 92, par. 3 of the Constitution 1975/1986, *“judicial employees’ promotions, assignments to positions, transfers, secondments, and reclassifications shall take place under the concurrent opinion of judicial councils”*. Therefore, two issues are raised. First, the possibility of transferring personnel from the judicial branch to the executive and vice-versa since the judiciary is independent⁴⁶⁰. Indeed, according to the decision 773/52 of the Supreme Council of Public Services (ASDY): *“A transfer may take place, under the constraints of the Civil Servants’ Code, only within the framework of the political public services. On the other hand, neither is it provided for, nor could it be feasible to transfer someone from a position of the administrative services to a position of the judicial services and vice versa, taking into consideration the fact that these categories of public services are basically different, and pertain to the exercise of different powers, that is, the executive and the judicial (Jurisprudence of ASDY, 1970). Second, the concurrent*

⁴⁵⁹ Supreme Council for the Selection of Personnel, Annual Report for the year 2000, Government Gazette, vol. B, no 286, 12.3.2003.

⁴⁶⁰ Indeed, the Code for judicial employees according to articles 19 and 20 of the law 294/1976 as in force by the time of the promulgation of the law 2349/1995 provided only for in-service transfers and secondments, that is, among courts and prosecution offices, with the exception of secondments to the Ministry of Justice. In other words, there was no mobility to and from the executive branch of government.

opinion of judicial councils is compulsory for any change in the service status of the judicial employees. In other words no special regulation contained in a law, as that of article 1, par. 6, may bypass article 92, par. 3 of the Constitution (Decision of the Council of State 629/1996).

Secondments, as a temporary recruitment policy, are provided for in the transitional provisions⁴⁶¹ of the law 2190/1994. The clause reads as follows: *“from the time of the appointment of its members and until the beginning of its functioning, the personnel of the Supreme Council for the Selection of Personnel shall be temporarily seconded to it according to the provisions in force”*. Thus, the employees may be seconded from public services and public law legal entities pursuant to the provisions of the Civil Servants’ Code. However, a subsequent regulation⁴⁶² provides that employees may be seconded to the Supreme Council for the Selection of Personnel from the public sector in general. All these secondments are compulsory for the employees and the releasing agencies, namely the employee is seconded without the concurrent opinion of the service council of the releasing agency. Furthermore, the law 2349/1995⁴⁶³ broadened the categories of the seconded employees with those serving in courts and prosecution offices. On the other hand, the clause provided that there were no time limitations for these secondments, whereas those which had already taken place were considered as secondments of indefinite time, if the secondment decision did not set time limitations.

Nevertheless, these clauses seem problematic in three respects. First, the procedure is not transparent since there is no public announcement for the interested civil servants. Second, these secondments of indefinite time violate the concept of secondment itself, as described in administrative law and the Civil Servants’ Code, since it has a temporary character. Thus, secondments should not be used for the fulfillment of permanent service needs (Decision of the Council of State, 420/1991). Third, the clause regarding the secondments of judicial employees might be unconstitutional for the reasons earlier stated in relation to the transfers of judicial employees⁴⁶⁴.

The transitional and final provisions⁴⁶⁵ of the executive law 3051/2002 of the Constitution provided that the permanent [sic] personnel of public services or public law legal entities or private law legal entities of the broader public sector that served on secondment in the constitutional independent authorities during the publication of the law could be transferred, upon application, to vacant positions of the organisational chart upon the recommendation of the relevant authority, on the decision of the competent ministers or the organs of administration of the releasing

⁴⁶¹ Article 13, par. 5 of the law 2190/1994.

⁴⁶² Article 14, par. 2 of the law 2266/1994.

⁴⁶³ Article 1, par. 1 of the law 2349/1995.

⁴⁶⁴ As we have earlier stated on the issue of the permissibility of the transfers of the judicial employees, their service status is regulated by the Constitution since justice functions as a separate branch of government. According to article 92, par. 3 of the Constitution 1975/1986, *“judicial employees’ promotions, assignments to posts, transfers, secondments, and reclassifications shall take place under the concurrent opinion of judicial councils”*. However, secondments to the Supreme Council for the Selection of Personnel have a compulsory character according to article 14, par. 2 of the law 2266/1994. Therefore, they take place without the (concurrent) opinion of the competent service councils. In this case, the secondments of the judicial employees may only take place upon decision of the competent judicial council (Decision of the Council of State 629/1996).

⁴⁶⁵ Article 5, par. 8 of the executive law 3051/2002 of the Constitution on the constitutional independent authorities.

legal entities, without the opinion of a service council, in derogation of the provisions in force. In other words, the clause gave the opportunity to employees from private law legal entities of the public sector or employees on private law contracts of indefinite time serving in public services or public law legal entities to fill permanent vacant positions of the organisational charts of the authorities, thus converting their working status. In our opinion, this legislative regulation violated article 103, par. 8 of the Constitution since conversion by law of private law contracts in the Public Administration and the broader public sector into contracts of unlimited duration (public law contracts) is prohibited.

ii. Direct hirings

The selection of the scientific and administrative personnel as well as the selection of lawyers with a salary mandate fell under the exclusive jurisdiction of the constitutional independent authorities according to article 4, par. 1 of the executive law 3051/2002 of the Constitution⁴⁶⁶. It should be noted that the regulations and the organisational chart of the Supreme Council for the Selection of Personnel do not provide for the criteria and the procedure for the selection of the personnel. The authority defines them each time in the relevant public announcements, that is, they are never uniform. However, article 1, par. 1d of the law 3812/2009 on the reformation of the recruitment system in the public sector abolished the autonomous recruitment regime of the executive law 3051/2002 of the Constitution. Thus, all the independent authorities, constitutional or not, are included in the group of public sector bodies of article 14, par. 1 and 2 of the law 2190/1994 that fall under the ambit of the general recruitment system provided for in the law 2190/1994 as in force.

iii. Discussions in Parliament

Despite the fact that the law 2190/1994 also provided for direct hirings, the formulation of the clause itself prevented the implementation of this recruitment policy. It clearly gave priority to those who had previous experience in the public sector, that is, the transfers system. On the other hand, even if the Supreme Council for the Selection of Personnel opted for direct hirings, the recruitment lacked transparency since the criteria and the selection procedure were not set forth in the relevant article. During discussions and debates in Parliament⁴⁶⁷ on the draft law

⁴⁶⁶ Article 4, par. 1 of the executive law 3051/2002 of the Constitution reads as follows: “*The scientific and the rest of the personnel of each authority are hired to positions provided for in its regulations and are selected by the authority following a public announcement with the criteria and the procedure as defined in it. If there is no relevant provision, the personnel are selected according to the criteria and the procedure that the authority defines in the public announcement, in accordance with the principles of publicity, transparency, objectivity, and merit. In any case, the public announcement precedes the selection, whereas the selection is assigned to a committee, whose composition and constitution is defined by decision of the independent authority. At least a member of the Supreme Council for the Selection of Personnel, and a judge of the Supreme Courts participate in the Committee. Whenever an interview is provided for, it is public. The interview is compulsory for the selection of the special scientific or the auxiliary scientific personnel*”.

⁴⁶⁷ Minutes of Parliament on the draft law “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*”, 8th Period (of Presidential Parliamentary Democracy), First Assembly, Session 53, discussion and debate in principal, February 2nd, 1994, available at: <http://www.hellenicparliament.gr/Praktika/Synedriaseis-Olomeleias?search=on&DateFrom=01%2F02%2F1994&DateTo=10%2F02%2F1994&SessionPeriod=92766fef-d4d2-4a56-a754-3081dfb67589>, date of access: 25.06.2010.

establishing the authority, the MP Byron Polydoras (New Democracy) stated that despite the fact that the new law regulated the recruitment system in the public sector, the authority did not commit itself to set criteria and define a selection mechanism for its own personnel. The MP Vassilis Kedikoglou (PASOK) stressed that by the time the new authority established examinations for the recruitment of personnel in the public sector, it could be considered as a sign of disrespect not to hire its own personnel through examinations. In his view, there should be a special examination for the personnel of the authority, if they wanted to establish an independent organ as they claimed. He emphasized that the personnel of the authority should not be recruited through transfers.

Three months after the promulgation of the law 2190/1994, the Minister of the Presidency of the Government, Anastassios Peponis (PASOK), who proposed and introduced the relevant law in Parliament⁴⁶⁸, admitted that they faced problems with the secondments of personnel to the authority. He stressed that there were no suitable employees to be seconded to the authority since such specialized agencies required special qualifications⁴⁶⁹. During discussions and debates in Parliament⁴⁷⁰ on the draft law "*Regulation of issues of the Supreme Council for the Selection of Personnel and special issues of personnel and operation of the public administration*", the MP Panagis Benetatos (PASOK), criticized the policy of the government to insist on the transfers regime. He claimed that if the government intended to establish an important institution, the recruitment policies of transfers and secondments showed its reluctance to move towards that direction. He stated that not only the number of the employees of the authority but also their quality was insufficient. He justified his view over the last point on the fact that the overwhelming majority of the civil servants currently serving in the public sector were not appointed on merit criteria. Therefore, he disagreed with the recruitment policies of transfers and secondments since the authority required personnel of high expertise, characterized by responsibility and maturity. He supported that there should be an examination in order to hire experienced, educated, and expert personnel specialized in the development of human resources. In his view, the authority should adopt the mentality of effectiveness and not that of legalistic and apparent legitimacy.

The Deputy Minister of the Interior, Charalambos Kastanides (PASOK) agreed with the MP's reservations. As for the small number of the positions of the organisational chart of the Secretariat provided for in the founding law, that is, 30 positions, he claimed that the budgetary discipline dissuaded the legislator from creating new positions in 1994. He also supported that it is right, and this happens to all the European countries, whenever the law provides for the establishment of an independent authority, to proceed to direct appointments of personnel with increased qualifications. On the other hand, he assured the MPs that the employees finally transferred were among the best, and of the highest level. He informed them that a

⁴⁶⁸ The law 2190/1994 is also known as "the Peponis's law".

⁴⁶⁹ Minutes of Parliament on the draft law "For the protection of free correspondence and communication", 8th Period (of Presidential Parliamentary Democracy), First Assembly, Session 128, June 29, 1994.

⁴⁷⁰ Minutes of Parliament on the draft law "Regulation of issues of the Supreme Council for the Selection of Personnel and special issues of the personnel and operation of public administration" (1995).

few months ago 177 civil servants⁴⁷¹ from the public sector had submitted their application following the first public announcement for transfers to the authority. He explained that after thorough examination of the candidacies, and based on strict criteria that the Supreme Council for the Selection of Personnel had internally formulated, the members of the authority had selected only 9⁴⁷² of the 177 candidates.

However, it seems that the nine employees, who were finally selected to be transferred, already served on secondment in the authority, according to the following abstract from the Annual Report for the year 1994: *“In order to make feasible the beginning of the functioning of the body in time, secondments from other public services and legal entities of the public sector were realized pursuant to article 13, par. 5, until the announced positions of its Secretariat get filled. Among the effected secondments are comprised and those of the selected employees to be transferred to the positions of the organisational chart until the procedure provided for in article 7 par. 3 and 4 gets realized”*. It should be reminded that these secondments took place pursuant to articles 13, par. 5 of the law 2190/1994 and article 14, par. 2 of the law 2266/1994, and were not transparent since no public announcement was foreseen. Consequently, the same employees who served on secondment were finally selected for the transfers after a public announcement.

The argument of restricting public expenditure through the recruitment policy of transfers was invoked by the Supreme Council for the Selection of Personnel in its annual report for the year 1995⁴⁷³. However, the argumentation invoked by the Deputy Minister and the annual report that the small number of the positions of the organisational chart and the policy of transfers were unavoidable because of the

⁴⁷¹ According to the Annual Report of the Supreme Council for the Selection of Personnel for the year 1994, the exact number of candidates was 155, distributed in categories and branches of specialisation as follows: UE Administration: 77, SE Administration: 61, UE Informatics: 5, TE Informatics: 2, SE Computer Operators: 7, SE Typist: 2, CE Auxiliary-Cleansing Personnel: 1.

⁴⁷² The agencies of provenance, categories and branch of specialisation of the nine transferred employees are as follows: Three employees were transferred from the Public Anonymous Company “Greek Technology and Constructions S.A.” a few months before its disbandment. Their categories and branch of specialisation were: UE Administration: 2, S.E. Administration: 1. Three employees were transferred from the General Navy Staff. Their categories and branch of specialisation were: U.E. Administration-Finance:1, U.E. Informatics: 1, S.E.: Administration-Accounting. One judicial employee was transferred from the Prosecution Office of the Supreme Court of Civil and Penal Law, a University graduate whose branch of specialisation was not defined in the Government Gazette. One employee was transferred from the Pension Fund of Motorists of the Prefecture of Serres to the regional office of the authority in Thessaloniki. His category and branch of specialisation was U.E. Administration-Financial. It seems that he had strong party affiliation since he was elected Prefectural Councillor of Serres with the party of PASOK (2003-2010). He was also Collaborator of two parliamentarians of Serres from the party of PASOK (2000-2005). One employee was transferred from the Organisation for the Publishing of School Books. His category and branch of specialisation was U.E. Administration-Financial. Interestingly enough, three of them were promoted to the positions of Directors General of the Secretariat, whereas one of them was also appointed as Councillor of the authority.

⁴⁷³ This argumentation will be repeated in the Annual Reports for the years 1996, 1997, 1998, and 1999. The Annual Report for the year 1995 stated *“The Supreme Council for the Selection of Personnel should serve as a model of high-level public service with respect to high performance, qualitative and quantitative” with zero, if possible, or otherwise minimal, expenditure of public money for the recruitment of its Secretariat. Based on this last position the Plenary of the Supreme Council for the Selection of Personnel judged that the positions of the organisational chart of its Secretariat must be filled by transferring personnel from the broader public sector, where, as it well known, there is abundance of personnel of all categories”*. (Government Gazette, vol. B, no 286, 12.3.2003, p. 3424)

budgetary discipline does not seem convincing. Within the same law that established the Supreme Council for the Selection of Personnel, and introduced a recruitment system in the public sector based on merit, that is the law 2190/1994, there were articles that seem to make the argument of budgetary discipline crumble. More specifically, articles 25 and 27 of the law came to give permanent tenure or private law contracts of indefinite time to thousands of temporary employees, despite the reservations expressed over their constitutionality⁴⁷⁴. Spanou (1996) comments on the reform introduced by the law 2190/1994:

However, despite its intentions, this reform, as many other before, *contradicts itself by including provisions contrary to its rationalizing attempt*. The most striking example is that it “legalizes” *ex-post* a Council of Ministers Act of May 1989, integrating into the civil service temporary employees. Through this procedure the government retroactively validates an unconstitutional act that had not been implemented because of the unfavourable electoral outcome of the time. For the rest it integrated into the civil service contract employees with three years of employment, and provided the possibility for temporary employees, dismissed by the New Democracy government in 1990, to gradually return to the civil service. Their status was even upgraded, since they were appointed as permanent civil servants or long-term contract employees. In this sense, the PASOK government paid its debts towards a part of the electorate that contributed to its return to power.

The selection criteria for the candidates of the transfers, as internally set by the authority, are described for the first time in the annual report for the year 1995: “*As criteria for the selection of the employees to be transferred, the Plenary of the Supreme Council for the Selection of Personnel set and applied the absence of service disciplinary convictions, ethos (decent behaviour), and excellent performance in their previous service, as these result from their service files in combination with the feedback derived from their presentation and examination in front of the selection committee composed of members of the Supreme Council for the Selection of Personnel*”. It is far from clear that these criteria are general, and most importantly no special formal qualifications are required for the positions. Therefore, the selection committees are inevitably granted wide discretion in assessing the candidates for transfers.

II. The specialized scientific personnel of the Secretariat

Interestingly enough, eight years after the establishment of the authority, the common legislator introduced forty positions of specialized scientific personnel in the organisational chart⁴⁷⁵. It is the only independent authority whose founding law does not provide for specialized scientific personnel. On the other hand, another crucial

⁴⁷⁴ The Scientific Report of Parliament expressed reservations over the constitutionality of article 25 of the draft law, whereas it created tensions during discussions in Parliament. Source: The Scientific Report of Parliament on the draft law “*Establishment of an independent authority for the selection of personnel and regulation of public administrative issues*” available at: The Official Website of the Hellenic Parliament, http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=8a98f188-db06-4992-b959-92ebac1856e8, date of access: 25.06.2010.

⁴⁷⁵ Article 12 of the law 3051/2002.

point that differentiates the specialized scientific personnel of the authority in relation to that of the other independent authorities and public services in general is their working status since they are permanent civil servants. However, article 103, par. 3 of the Constitution provides that: *“Positions of specialized scientific and technical or auxiliary personnel provided by law may be filled by personnel hired on private law contracts. The terms of employment, and the specific guarantees under which these personnel shall be employed, shall be specified by law”*.

Could this legislative regulation regarding the working status of the specialized scientific personnel of the authority be considered as unconstitutional? Article 3 of the Constitution clearly set the constitutional constraints that bind the common legislator in relation to the organisation of the administration on the one hand, and the legal position of its employees, on the other. The specialized scientific personnel on private law contract enjoy the guarantees of tenure, whereas their competences are clearly restricted to the provision of scientific work. The main reasons that favoured the option of private law working relationship were i) the possibility of increased remuneration compared to that of civil servants on a public law relationship, and ii) the flexibility of the working relationship⁴⁷⁶ (Bakoyiannis, 2000). It should be noted that lawyers may also be appointed to positions of the special scientific personnel of the constitutional independent authorities⁴⁷⁷. However, they are suspended from the exercise of the lawyer’s profession as long as they serve in the authority, despite the fact that they work on a private law contract of indefinite time. This limitation is completely justifiable since it is linked to the personnel’s independence in the discharge of their duties.

But even if we accept that the common legislator has the option to create permanent positions in the organisational chart of the specialized scientific personnel, as is the case with the Supreme Council for the Selection of Personnel, this would enhance the danger of unequal treatment among employees through the coexistence of positions with the same competences filled by two categories of personnel, namely on private law contract and permanent ones. Thus, they differ in their possibility for promotion, and other aspects of their service status despite the fact that they both enjoy guarantees of tenure. Indeed, under the authorization of article 12, par. 4 of the law 3051/2002 establishing the specialized scientific staff of the Supreme Council for the Selection of Personnel, the Plenary of the organ issued the decision 3/2006⁴⁷⁸ on the personnel’s promotion system through the classification of positions⁴⁷⁹, and the definition of their duties. Therefore, the specialized scientific personnel of the Supreme Council for the Selection of Personnel enjoys a unique, privileged working status in relation to the rest of the personnel of the same category in the Greek public administration.

The selection criteria and formal qualifications of the specialized scientific personnel⁴⁸⁰, are defined as follows: a degree or diploma from a Greek University or,

⁴⁷⁶ For example, the exercise of the profession of the lawyer is incompatible with one’s capacity as a civil servant on public law relationship.

⁴⁷⁷ Article 4, par. 7 of the executive law 3051/2002 of the Constitution.

⁴⁷⁸ Government Gazette, vol. B, no 539, 2.5.2006.

⁴⁷⁹ The positions are classified as follows: Special Rapporteur of Third Order, Special Rapporteur of Second Order, Special Rapporteur of First Order, and Assistant.

⁴⁸⁰ Article 12 par. 2 of the executive law 3051/2002 of the Constitution.

its equivalent from a foreign educational institute, a diploma of postgraduate studies with duration of at least one year, and at least three years experience are required for the appointment. Excellent or very good knowledge of a foreign language shall be additionally taken into account for the assessment of the candidates. The article also provides that each time the public announcement for the filling of the positions further specifies the required by position degrees, basic and postgraduate, as well as the required experience, depending on the needs of the Supreme Council for the Selection of Personnel. The selection of the specialized scientific personnel follows the same procedure as that provided for the administrative personnel of the constitutional independent authorities⁴⁸¹. The interview is compulsory for this category of personnel.

B. Analysis of the empirical data

I. The administrative personnel

i. Transfers: the flawed clause or testing the legality of transfers

The empirical data on the two hundred (200) transferred personnel to the Supreme Council for the Selection of Personnel were derived from the relevant individual administrative acts, that is, the transfer decisions, published in the government gazette. These decisions cover the period from the first transfer decision published in February 1995 to the last transfer decision published in December 2007. In general, the information contained in the text of the individual administrative acts of transfers is divided in two parts: the first part describes the civil servant's status in the releasing agency, that is, the legal aspect of the employment relationship, the category, branch, and grade he possesses⁴⁸², whereas the second part contains the same information in

⁴⁸¹ Article 4, par. 1 of the executive law 3051/2002 of the Constitution.

⁴⁸² Article 34 of the law 2190/1994 in force by the time of the transfers, contains the scale of grades, the structure of positions, and promotions to these grades in the public service. The said article amended the relevant clause of the Civil Servants' Code of 1977. The Civil Servants' Code of 1999 did not alter the grades scale. There were only some internal alterations in relation to the time spent at each grade. The structure of grades is as follows:

The positions of the categories of University Education (UE), Technological Education (TE), Secondary Education (SE), and Compulsory Education (CE) are classified in five grades in total as follows:

Grade A

Grade B

Grade C

Grade D

Grade E

The positions of the category of Special Positions (SP) are classified in grades 1st and 2nd. The positions of the categories UE, TE, and SE are classified in grades D, C, B, and A. D is the lower grade, and A is the higher grade. The positions of the category CE are classified in grades E, D, C, and B. E is the lower grade, and B is the higher grade. The entering grade of the categories UE, TE, and SE is grade D, whereas the entering grade of the category CE is grade E. For the graduates of the National School of Public Administration the entering grade is grade B. Among employees of the same grade there is no ancestry.

The following are required for promotion from grade to grade:

For the UE category: from grade D to grade C a two-year service at grade D, from grade C to grade B a six-year service at grade C, from grade B to grade A a six-year service at grade B, from grade A to the Director's grade a six-year service at grade A.

For the TE category: from grade D to grade C a two-year service at grade D, from grade C to grade B a seven-year service at grade C, from grade B to grade A a seven-year service at grade B.

For the SE category: from grade D to grade C a two-year service at grade D, from grade C to grade B a nine-year service at grade C, from grade B to grade A a nine-year service at grade B.

relation to the civil servant's status in the receiving agency. As we have earlier stated, we consider that the clause regulating the transfers of the administrative personnel, as well as the transitional clause of the executive law 3051/2002 of the Constitution providing for the transfer of employees seconded to the constitutional independent authorities were both flawed. They actually permitted employees on private law contracts of indefinite time⁴⁸³ to fill vacant permanent positions of the organisational chart of the Secretariat of the Supreme Council for the Selection of Personnel. The information contained in the transfer decisions, as earlier presented, combined with the legal status of the agencies of provenance are the main criteria to test the legality of transfers. Indeed, information gaps in the texts of the transfer decisions unravel the embarrassment regarding their formulation as well as their inconsistencies.

Thus, we attempted to decode the texts of the transfer decisions in relation to the legal aspect of the employment relationship -public or private law contract- of the transferred personnel before (status in the releasing agency) and after their transfer (status in the receiving agency) as formulated in the text of the transfer decisions published in the Government Gazette. Two tables, each one divided in two parts based on the before transfer-after transfer employment relationship, were created. The first table describes the variations in the formulation of the two parts of the transfer decisions in relation to regular employees, whereas the second table describes these variations in relation to employees on private law contracts of indefinite time. The term "employees on private law contracts of indefinite time" refers to their working status before the transfer. This category of personnel raises the issue of the legality of the transfers. Following the structure of the second table, the personnel are divided into three subcategories sharing two common characteristics: i) all the releasing agencies are private law legal entities, and ii) all the employees do not possess grades in the first part of the transfer decisions. Therefore, private law legal entities and the absence of grade constitute the basic criteria to test the legality of the transfers. Appendix 8, text 1 contains the tables and full analysis of the decoded transfer decisions.

As for the first criterion to test the legality of the transfers, that is, the legal status of the releasing agencies, Table 1 presents a comprehensive list of the releasing agencies of the transferred administrative personnel. The agencies signaled with italics were private law legal entities by the time each transfer occurred. Furthermore, Table 2 presents the percentage of the transferred employees coming from public services, public law legal entities, and private law legal entities. According to the empirical data, half of the transferred employees come from private law legal entities (48%, 97 of 200). More specifically, they come from public enterprises and organizations and other private law legal entities, whereas the proportion of those coming from social security-pension funds, the armed forces and the central services of Ministries is significant⁴⁸⁴. As for the supervising Ministries, the majority of the transferred

For the CE category: from grade E to grade D a two-year service at grade E, from grade D to grade C a ten-year service at grade D, from grade C to grade B a ten-year service at grade C.

⁴⁸³ The employees under this working status could either come from private law legal entities of the public sector or public services and public law legal entities.

⁴⁸⁴ See Appendix 8, table 1.

Table 1 List of the releasing agencies of the transferred administrative personnel

Agencies by Supervising Ministry		Ministry of Finance
Ministry of Development	<i>Central Service</i>	<i>Foundation of Social Work</i>
<i>Greek Technology and Constructions SA</i>	<i>Foundation of Social Security (IKA)</i>	<i>Centre of Innovation (KEKA)</i>
<i>Greek Iron Mixtures SA</i>	<i>Centre for Infectious Diseases Control (KEELPNO)</i>	<i>Shipyards of Elefsina SA</i>
<i>Piraiiki-Patraiki SA</i>	<i>Organisation Against Drugs (OKANA)</i>	<i>Hellenic Shipyards SA</i>
<i>Greek Company of Industrial and Mining Activities SA (ELEVME)</i>	<i>Athens Hospital of Chronic Diseases for Children</i>	<i>National Statistical Service of Greece</i>
<i>Hellenic Organisation of Small and Medium Enterprises (EOMMEX)</i>	<i>State Nursery Station of Rethymnon</i>	<i>Export Credit Insurance Organisation</i>
<i>General Mining and Metallurgical Company SA (LARCO)</i>	Ministry of National Education and Religious Affairs	<i>Economic and Social Committee</i>
<i>Athens Paper Mill SA</i>	<i>Organisation for the Publishing of School Books</i>	<i>Hellenic Aerospace Industry SA</i>
<i>Public Power Corporation</i>	<i>Technological Educational Institute of Athens</i>	Ministry of Employment and Social Protection
<i>Organisation for the Economic Reconstruction of Enterprises SA</i>	<i>Athens School of Fine Arts</i>	<i>Computer Centre for Social Services</i>
<i>ETHNODATA SA (Public Bank subsidiary)</i>	<i>National Youth Foundation</i>	<i>Traders' Insurance Fund</i>
<i>Greek Salt Pits SA</i>	Ministry of National Defence	<i>Insurance Fund of Professionals and Craftsmen (TEVE)</i>
<i>Hellenic Centre for Marine Research</i>	<i>Central Service</i>	<i>Auxiliary Security Fund for Employees of Pharmaceutical Operations</i>
<i>Greek National Tourism Organisation (GNTO)</i>	<i>General Army Staff</i>	<i>Welfare Fund of Public Works Contractors</i>
<i>Athens Business Chamber</i>	<i>General Navy Staff</i>	<i>Civil Servants' Welfare Fund</i>
<i>Hellenic Competition Commission</i>	<i>General Air Force Staff</i>	Ministry of Culture
Ministry of Agriculture	<i>Greek Arms Industry SA</i>	<i>Central Service</i>
<i>Central Service</i>	<i>Band Staff of the Minister of Defence (EPYETHA)</i>	Ministry of Transport and Communications
<i>Company for Agricultural Development "Evritania SA"</i>	<i>Army Pension Fund</i>	<i>Hellenic Railways Organisation SA</i>
<i>Agricultural Insurance (Public Bank subsidiary)</i>	General Secretariat of the Government under the jurisdiction of the Prime Minister	<i>Olympic Airways SA</i>
<i>Pindos SA</i>	<i>Ministry of the Interior</i>	<i>Olympic Aviation SA</i>
<i>Organisation for the Payment and Control of the European Community Aid, Orientation and Guarantees</i>	<i>Central Service</i>	<i>Olympic Catering SA</i>
<i>Greek Agricultural Insurance Organisation (ELGA)</i>	<i>National Intelligence Service</i>	<i>Olympic Airways-Services SA</i>
Ministry of Development – Ministry of Agriculture	<i>Prefecture of Piraeus</i>	<i>Thermal Bus Company SA (ETHEL)</i>
<i>Organisation of the Central Market of Athens (OKAA)</i>	<i>Prefectural Self-Administration of Thessaloniki</i>	<i>Greek Post SA (ELTA)</i>
Ministry of Justice (Courts)	<i>Municipality of Egaleo</i>	<i>Greek Postal Savings Bank SA</i>
<i>Office of the Prosecutor of the Hellenic Supreme Court of Civil and Penal Law</i>	<i>Municipality Pylareon (Island of Kefallonia)</i>	<i>Hellenic Telecommunications and Post Commission</i>
<i>Court of First Instance of Thessaloniki</i>	<i>Municipality of Loutropolis (Island of Lesbos)</i>	Ministry of Commercial Shipping
<i>Court of First Instance of Athens</i>	<i>Municipality of Agioi Theodori (Prefecture of Corinth)</i>	<i>Piraeus Port Authority SA</i>
Ministry of Foreign Affairs	<i>Municipality of Athens</i>	Ministry of Environment, Planning, and Public Works
<i>Central Service</i>	<i>Municipality of Elliniko</i>	<i>Anonymous Company for the Exploitation and Management of Greek Highways (TEO SA)</i>
<i>National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks</i>	<i>Prefectural Self-Administration of Kefallonia-Ithaka</i>	Ministry of Public Order
Ministry of Health and Welfare	<i>Prefecture of Athens</i>	<i>Central Service</i>
<i>Pension Fund of Motorists of the Prefecture of Serres</i>	<i>National Centre of Public Administration</i>	Ministry of Culture and Ministry of Finance
<i>Tzaneio Regional General Hospital of Piraeus</i>	<i>Centre for Vocational Training and Research of the Prefecture of Magnesia</i>	<i>Foundation of Mediterranean Studies</i>
<i>Third Athens Hospital of Chronic Diseases</i>	Ministry of Press and Mass Media	
<i>Regional General Hospital of Thoracic (Chest) Diseases "The Salvation"</i>	<i>Greek Radio and Television SA</i>	
<i>General Hospital Evangelismos</i>		

*The agencies with italics were private law legal entities by the time the transfers took place.

TABLE 2 Legal Status of the releasing agencies

	Public Services	Public Law Legal Entities	Private Law Legal Entities
% Transferred personnel by legal status of the releasing agency	25% (50 of 200)	27% (53 of 200)	48% (97 of 200)

Source: The Government Gazette

personnel come from the Ministries of Development, Defence, Finance, Health and Welfare, Employment, and Interior⁴⁸⁵.

Thus, after having taken into consideration the two main criteria for the assessment of the legality of the transfers, the irregular cases are divided into three categories: a) irregular cases, b) controversial cases, and c) extraordinarily irregular cases.

a. The category of irregular cases simply pinpoints cases of conversion of the employee's working relationship from private law contract of indefinite time to the status of regular civil servant. The ways of conversion are as follows:

i) The tacit conversion, which comprises the majority of cases, according to which we assume the conversion based on the legal status of the agency, that is, public enterprises and organizations or other private law legal entities, and the absence of grade at the employee's previous position, and

ii) The explicit conversion, where the employee's working relationship, that is, on private law contract of indefinite time, is explicitly written in the first part of the transfer decision, whereas the employee fills a vacant permanent position of the organizational chart in the second part of the transfer decision. We have identified nine cases, that is, nine members of the transferred administrative personnel pertaining to the explicit conversion of the working relationship⁴⁸⁶.

b. The category of controversial cases comprises those that might be irregular, depending on interpretation relating to the institutional design, lack of evidence, or other specific cases. The controversial cases are further analysed in Appendix 8, text 2.

c. The category of extraordinarily irregular transfer cases refers to cases where we have identified multiple violations of the legislation. The analysis of the cases located is presented in Appendix 8, text 2.

Table 3 shows the legality of the transfers of the administrative personnel of the Secretariat of the Supreme Council for the Selection of Personnel according to the previous analysis. Only 33% (66 of 200) of the transfers were legal, whereas 49% (97 of 200) were illegal. The controversial cases represent 19% (37 of 200) of the cases under study.

TABLE 3 The degree of legality of the transfers

	<i>Yes</i>	<i>No</i>	<i>Controversial Cases</i>
% of legality of the transfers	33% (66 of 200)	48% (97 of 200)	19% (37 of 200)

⁴⁸⁵ See Appendix 8, table 2.

⁴⁸⁶ TAP33, TAP36, TAP38, TAP183, TAP184, TAP187, TAP190, TAP194, and TAP199. The indication TAP stands for Transferred Administrative Personnel.

Despite the obvious defect in the institutional design of the clause on transfers, the empirical data show that half of the transferred personnel came from private law legal entities. As a result, there was an irregular conversion of the working relationship of the transferred personnel. However, the Annual Reports do not express any hesitations or reservations over the issue. On the contrary, in the Annual Reports of 1995 and 2000, it is explicitly mentioned that it was a policy of the authority to transfer personnel from agencies of the broader public sector, as if there were no legal barriers in its implementation. Furthermore, with the exception of the Annual Report for the year 1994, the remainder of the Annual Reports does not provide any information on the public announcements for transfers that took place after 1994. The annual reports for the years 1997 and 1998 simply refer to the issue of the employees' low interest for transfers to the authority. They were reluctant to submit their candidacies because of the lower remuneration provided for the personnel of the authority compared to the one they received from their respective agencies. The Annual Report for the year 1999 notes that according to article 20 par. 3, subpara. b of the law 2738/1999 the personnel of the Supreme Council for the Selection of Personnel would also receive the special allowance provided for the personnel of the Secretariat of the Greek Ombudsman. The Annual Report explains that this legislative measure was proposed by the authority in order to motivate employees of high quality to submit candidacies for transfer.

The policy of transferring employees from public enterprises and organizations, and private law legal entities, in general, has also another dimension, apart from simply converting the employees' working relationship to a more privileged status. These transfers, which took place from 1994 to 2004, coincide chronologically with the wave of privatizations in the broader public sector⁴⁸⁷, the conversion of the legal

⁴⁸⁷ Pagoulatos (2005) describes the three waves of nationalizations in the public enterprise sector before the wave of privatization as follows: "As in most other Western economies, the public enterprise sector in Greece was built gradually during the twentieth century through successive waves of state consolidation. Except for certain public specialized credit institutions (including the Agricultural Bank, the National Mortgage Bank and most notably the Bank of Greece, the country's central bank) established in the late 1920s, the first notable wave of state initiative in the public enterprise sector occurred after the end the Second World War and through the 1960s. This developmental wave of public enterprise creation (rather than nationalization) included public utilities such as telecommunications and electricity, a national tourism organization, and several development institutions aimed to advance the country's industrialization, offsetting private sector inability or market failures. The second major wave of nationalizations took place during the post-1974 transition to democracy, as was also the case in Spain and Portugal (Maravall 1993). Aiming to assert national economic control over key sectors, to emit a message of government resolve to major capital owners, and to appeal to wider radicalized social strata, the New Democracy (Νέα Δημοκρατία, ND) government of Constantine Karamanlis in 1974-77 nationalised Olympic Airways, a number of major firms such as refineries, and most notably the country's second largest banking group, Commercial Bank, through which an additional group of industrial subsidiaries came under state control. This could be labeled the democratization wave of nationalization. The third major wave of nationalizations occurred under the first Pan Hellenic Socialistic Movement (Πανελλήνιο Σοσιαλιστικό Κίνημα, PASOK) government of Andreas Papandreou. To a certain extent, this socialist wave of nationalizations ("socializations") reflected a government strategy of assuming control over "strategic" sectors of the economy, as with the nationalizations of Larco (mineral exploitation), Pyrkal (munitions industry), the Lavrion lead mines and the Heracles General Cement Company (Georgakopoulos et al. 1987; Teitgen-Colly 1987). By 1983, 19 out of the top industrial concerns in Greece were controlled either directly or indirectly by the state – a single-year increase of eight very large firms (Bermeo 1990:4). This dirigiste rationale was subsumed under a broader job-saving effort to rescue a large number of faltering, over-indebted industrial firms. Thus the Industrial

status of public law legal entities to public anonymous companies, and the disbandment of a number of private law legal entities. Thus, could these transfers have served clientelistic purposes since they saved some employees serving in the broader public sector from unemployment or an unprivileged transfer? It seems that the transferred personnel already pertained to the clientele of the parties. Spanou (2008) argues that there was an “*excessive proximity of public corporations to politics and their exploitation by the party in government for electoral purposes, especially in the form of employment reserves*”. In other words, the recruitment of employees to enterprises of the broader public sector was the result of clientelistic practices.

The empirical data derived from the government gazette relating to the releasing agencies permitted the construction of a comprehensive table⁴⁸⁸ containing information on the status of each releasing agency (legal status, under liquidation, trade sales) by the time of the transfer or shortly afterwards, the number of employees transferred by agency, and, in some cases, crucial dates of transfers in relation to any change in the status of an agency. The table is accompanied by a short analysis.

ii. The qualifications and the mobility of the transferred personnel

The transfer decisions contain information on the level of education (category), the specialization (branch), and the experience, through the grade system, of the transferred personnel. Table 4 shows the level of education of the transferred personnel⁴⁸⁹. It is obvious that the majority of the transferred personnel are graduates of higher education institutions (58%, 116 of 200). Nevertheless, in our opinion, the percentage of secondary education graduates is unacceptably high (37%, 74 of 200). The massive transfer of typists and computer operators seems incompatible with the principle of expertise which is predominant in the philosophy of independent authorities.

Table 4 The level of education of the transferred administrative personnel

	<i>University Education</i>	<i>Technological Education</i>	<i>Secondary Education</i>	<i>Compulsory Education</i>
% of the transferred administrative personnel by level of education	49% (99 of 200)	9% (17 of 200)	37% (74 of 200)	9% (10 of 200)

Table 5 shows the grades of the transferred personnel when the transfers took place. The grade system indirectly gives information on the employees’ experience, namely,

Reconstruction Organisation (Οργανισμός Ανασυγκρότησης Επιχειρήσεων, OAE) was established in 1983 as a holding company for an initial 44 larger-sized ailing firms, to which many others were later added. Though OAE was supposed to overhaul the ailing firms and preferably return them to the market, any privatization intention was frozen until 1990, by which time their debts had multiplied”. As for the wave of privatizations, Spanou (2008) states: “Despite a short period under PASOK (1985-1987 stabilisation programme) and the gradual liberalization of the capital market in the late 1980s, privatization became the order of the day under the New Democracy government (1990-1993) and was later systematically pursued by subsequent PASOK governments (1993-2004 ”.

⁴⁸⁸ See Appendix 8, text 3 and table 3 on the status of the releasing agencies by the time of the transfers.

⁴⁸⁹ See Appendix 8, table 4 on the specialization of the transferred personnel.

how many years they have served in the civil service. The indication “no grade” refers to ten cases⁴⁹⁰ according to which the transferred employees filled personal positions on private law contract of indefinite time. Therefore, they possessed no grade. The indication the “grade possessed” refers to cases of regular employees who are transferred. It is a typical expression often used in transfer decisions regarding permanent civil servants. However, it does not reveal the grade of the civil servant. The indication “unknown grade” refers to four cases⁴⁹¹ according to which the transfer decisions remain silent on the grades given or possessed by the transferred employees.

The empirical data, as shown in Table 5, reveal that 39% (80 of 200) of the transferred personnel possessed grade D. This means that they had recently been appointed to the releasing agencies, and had served there for three years at the most. On the contrary, employees possessing grade A represent only 5% of the transferred personnel. However, the exact percentage of the employees by grade remains unknown since we should take into consideration the fact that the category “the grade possessed” conceals the grades of 54 employees. Despite this gap in the data, these results combined with the age limits on transfers⁴⁹² lead to the conclusion that the transferred personnel were not particularly experienced. This, in turn, might raise the question why the authority did not proceed to direct appointments, if they did not intend to transfer experienced personnel from the public sector⁴⁹³. Unless we consider that a two-year experience is satisfactory. Moreover, the activity of public enterprises and private law legal entities in general is not mainly based on the protection of legality compared to that exercised by the core services of the State. Therefore, the competences assigned to the authority demand not only efficiency and effectiveness in the daily exercise of duties, but also a deep sense of protecting legality as a core feature of the regulatory nature of the authority.

Table 5 The experience of the transferred personnel through the grade system

<i>Grade</i>	<i>% personnel by grade by the time of the transfer</i>
No grade	5% (10 of 200)
The grade possessed	26% (54 of 200)
Unknown grade	2% (4 of 200)
Grade E	4% (7 of 200)
Grade D	39% (80 of 200)
Grade C	8% (15 of 200)
Grade B	11% (21 of 200)
Grade A	5% (9 of 200)
Total	200

In-service mobility of the transferred personnel, namely, reclassifications from one branch to another within the same category and reclassifications to a branch in a

⁴⁹⁰ TAP25, TAP26, TAP28, TAP29, TAP30, TAP31, TAP32, TAP69, TAP70, and TAP119.

⁴⁹¹ TAP1, TAP2, TAP3, and TAP34.

⁴⁹² Age limits were set by article 7 of the law 2190/1994, as amended by article 20, par. 2 of the law 2738/1999.

⁴⁹³ We should remind that according to Article 7 of the law 2190/1994 those who had experience especially in public services, local government agencies and legal entities of par. 1 of article 14 of the law 2190/1994 would be preferred to direct appointments.

superior category is not rare. According to the empirical data⁴⁹⁴, nine secondary education graduates changed branch within the same category, whereas eight secondary education graduates obtained a university degree while in service, and thus were reclassified to a superior category. Finally, one compulsory education graduate obtained a secondary education degree while in service, and was reclassified to a superior category.

Cases of mobility of the personnel after the transfer, namely, new appointments, transfers, and secondments to other agencies of the public sector have also been identified⁴⁹⁵. As for new appointments, one employee was appointed as teacher in primary education shortly after his transfer to the authority. The Director General of the Secretariat was appointed Councillor of the authority in 1998 through the co-optation system, while she simultaneously kept the position of Director General until 2003. The renewal of the mandate to the position of Director General seems to have been irregular. She was reappointed as Councillor by the Conference of Presidents in 2003, whereas her mandate was renewed in 2006. She was replaced in 2011. Seven employees were transferred to other agencies. Interestingly enough, three of the transferred employees moved to services situated to the province. The employee transferred to the Region of Central Macedonia served in the bureau of the Supreme Council for the Selection of Personnel in Thessaloniki. He was elected Prefectural Councillor in the Prefecture of Serres with the party of PASOK (2003-2010). The rest of the transfers, namely the transfer to the Hellenic Parliament, and two transfers to the Ministry of Finance could be characterized as privileged ones since the monthly remuneration is higher than that of the Supreme Council for the Selection of Personnel. There is no open procedure for such transfers. One of the transferred employees to the Ministry of Finance had already served on secondment to the political bureau of the Minister of Finance before the transfer.

Secondments to other agencies of the public sector are difficult to detect since they are not published in the government gazette with the exception of secondments to revocable governmental positions. We assume that the secondments might be more than the ones we finally managed to find. We have already mentioned one secondment to the political bureau of the Minister of Finance. Another interesting secondment implying political involvement is that to the Office of Organisation and Management of the Prime Minister (1998-2003). The same employee served on secondment to the General Secretariat of the Cabinet as Special Collaborator (2003-2004). She is a secondary education graduate⁴⁹⁶ (S.E. Computer Operator). Finally, one employee has been seconded to the National Statistical Service of Greece, bureau of Patras, whereas another one serves on secondment to the Special Managing Service of the Operational Programme “Administrative Reform 2007-2013” at the Ministry of the Interior, as Head of Unit A2.

Secondments to the authority from other agencies of the public sector are difficult to detect for the reasons previously analysed. However, the annual reports for the period

⁴⁹⁴ See Appendix 8, tables 5, and 6.

⁴⁹⁵ See Appendix 8, table 7.

⁴⁹⁶ According to article 79, par. 2 of the Presidential Decree 63/2005 “Codification of the legislation on government and governmental organs” the duties of Special Collaborator at the General Secretariat of the Government may be assigned to University graduates or Technological Educational Institutes graduates or secondary education graduates.

1994-2009 provide information on the seconded employees' total number per year⁴⁹⁷. The annual reports for the periods 1994-1996 and 2001-2004 give more detailed information since they distribute the seconded employees by category. The annual report for the year 2010 remains silent on their number. The seconded employees' number has significantly increased and stabilized since 2005. Interestingly enough, the empirical data on their level of education show that the authority followed the policy of massively seconding secondary education graduates which seems unjustifiable in relation to the special nature of the authority. Finally, the seconded employees enjoy a privileged remuneration status⁴⁹⁸.

iii. Direct hirings

The possibility of directly hiring the administrative personnel of the Secretariat through an open procedure was never implemented despite the relevant legislative regulation⁴⁹⁹. We should also remind that the clause was contradictory in itself since it gave priority to candidates who had previous experience in the public sector, that is, candidates through transfers. Therefore, the direct appointments would be activated only in the improbable case of positions left vacant through the transfers system. Furthermore, as we have previously analysed, the argument of saving public expenditure through the transfers system rather served as an alibi.

The issue of direct hiring to the authority came back to the discussion in the Annual Report for the year 2000. According to the report, the filling of 85 vacant positions of the Secretariat was blocked because of the reluctance of the competent ministers supervising the releasing agencies to sign the transfer decisions. The authority following the decision 31/25.9.2000 of its Major Plenary proposed the legislative regulation of direct hiring according to the procedure provided for the selection of the specialized scientific personnel⁵⁰⁰, thus applying rules of the general recruitment system in the public sector. This legislative regulation never took place. It was the executive law 3051/2002 of the Constitution on the constitutional independent authorities that finally settled the issue of direct hiring⁵⁰¹. The autonomous selection mechanism was finally abolished by the law 3812/2009.

Since 2003, the authority has launched four times open procedures for the selection of administrative personnel through direct hiring⁵⁰². The public announcements were all published in the government gazette⁵⁰³. They defined the required diplomas of secondary or university education as well as additional required qualifications as they were each time specifically described, that is, postgraduate degrees (Masters), work experience, and the knowledge of word processing, excel, and internet. Additional

⁴⁹⁷ See Appendix 8, table 8.

⁴⁹⁸ Those seconded to the authority receive their salary and any additional regular payments, as well as all the regular allowances, special compensations and earnings of their main position regularly paid, and which continue to be paid by the service from which they are seconded. Furthermore, they receive from the authority the special additional allowance provided for the personnel of the authority Pursuant to article 20, par. 2 of the law 2738/1999.

⁴⁹⁹ Article 7 of the law 2190/1994.

⁵⁰⁰ Article 19 of the law 2190/1994, as replaced by article 4 of the law 2527/1997.

⁵⁰¹ Article 4, par. 1 of the law 3051/2002.

⁵⁰² See Appendix 8, text 4 containing a short presentation of the four open procedures.

⁵⁰³ The public announcements were published in the Government Gazette in 2003, 2006, 2008, and 2009.

qualifications, namely, doctorates, work experience, and the knowledge of foreign languages were equally assessed. However, the policy relating to the formulation of the additional required qualifications was not uniform. More specifically, the postgraduate qualification (Master's degree) seems to have played a crucial role in the sense that it was not always included in the additional required qualifications. Thus, the first and fourth public announcements launched in 2003 and 2009 respectively defined the possession of a Master's degree as an optional additional qualification. The system of awarding points for each one of the selection criteria for all the categories of personnel was first implemented in the second open procedure, whereas it was introduced in the first open procedure only for the personnel of secondary education. An interview was provided for the preselected candidates of university and technological education in the first, second, and third open procedures. The fourth open procedure replaced the interview with the candidates' performance at the panhellenic skills test. The unsuccessful candidates may submit an appeal. The percentage of secondary education positions to be filled, as provided for in the third and fourth public announcements, was unjustifiably high in our opinion.

Table 6 shows the level of education of those appointed following the first three public announcements⁵⁰⁴. The percentage of the graduates of higher education institutions (86% in total, 36 of 42) is much higher than that of the transferred personnel. Nevertheless, it is impossible to estimate the number of appointees who possess postgraduate degrees or PhDs. Only the second and third public announcements defined postgraduate degrees as a prerequisite for selection for the category U.E. Administration-Finance, namely 11 of those appointed possess a postgraduate degree. There might be one or some with a PhD, but it cannot be verified. Furthermore, it is almost certain that many of the appointees of the same category who participated in the first public announcement possess postgraduate degrees. As for their specialisation, the vast majority of the directly appointed personnel pertain to the category and branch U.E. Administration-Finance⁵⁰⁵. Finally, we have identified two appointees who previously worked in the public sector. The employee 40, resigned from her position at the Athens Chamber of Commerce and Industry⁵⁰⁶ after her appointment to the authority. The employee 21 had served as a revocable employee at the political bureau of the Deputy Minister of National Education and Religious Affairs⁵⁰⁷.

Table 6 The level of education of the directly hired administrative personnel

	<i>University Education</i>	<i>Technological Education</i>	<i>Secondary Education</i>
% of the newly hired personnel by level of education	76% (32 of 42)	10% (4 of 42)	14% (6 of 42)

As for the level of education of the total number of the administrative personnel, 1/3 is secondary education graduates, an unjustifiably high rate⁵⁰⁸. The gender distribution

⁵⁰⁴ The appointment of the successful candidates of the fourth open procedure is still pending.

⁵⁰⁵ See Appendix 8, table 9 on the specialization of the directly hired personnel.

⁵⁰⁶ Government Gazette, vol. C, no 127, 23.2.2010.

⁵⁰⁷ Government Gazette, vol. C, no 46, 6.3.2000.

⁵⁰⁸ See Appendix 8, table 10. See also Appendix 8, table 11 on the specialisation of the total number of the administrative personnel.

is as follows: 67% are women, and 33% are men for the category of the transferred personnel, whereas 76% are women and 24% are men for the category of the directly hired personnel⁵⁰⁹.

II. The specialized scientific personnel

The first public announcement for the selection of specialized scientific personnel to the authority was published in the government gazette in 2007⁵¹⁰. The selected candidates were appointed in 2008, and thus the authority hired scientific personnel for the first time after fourteen years of operation. The distribution of the 17 vacant positions of the organisational chart to be filled is shown in Table 7.

Table 7 Distribution of the positions according to the public announcement 1A/2007 for the selection of specialized scientific personnel

<i>Specialization</i>	<i>Grade of the position</i>	<i>Number of positions</i>
Administrative Law	Special Rapporteur of First Order	1
Administrative Law	Special Rapporteur of Second Order	4
Administrative Law	Special Rapporteur of Third Order	4
Constitutional Law	Special Rapporteur of Third Order	3
Public Administration	Special Rapporteur of Third Order	3
Business Administration	Special Rapporteur of Third Order	1
Administration of Works or Informatics Systems	Special Rapporteur of Third Order	1

The formal qualifications were defined as follows: i) a university degree, as specified in the announcement, ii) a postgraduate degree within the field of specialty of the position to be filled, and iii) at least three-year specialised experience in the field of specialty of the position to be filled⁵¹¹. The excellent or very good knowledge of a foreign language, preferably English or French or German or Italian or Spanish, was equally taken into consideration for the assessment of the candidates.

A five-member selection committee constituted by decision of the President of the authority would decide on the candidates to be finally appointed. According to the announcement, the selection committee would assess and classify the candidates based on the university degrees and their grades, the postgraduate degrees, the knowledge of foreign languages, the experience, the scientific works, and other relevant activities of the candidates as well as the results from the personal interview of each one of them with the committee. Interestingly enough, the announcement did not contain a grading system for each one of the selection criteria.

According to the final selection results published in the government gazette⁵¹², fifteen candidates were finally selected with the grade of Special Rapporteur of Third Order. On the other hand, two positions, that is, the positions of Special Rapporteur of First Order and Second Order, remained vacant despite the fact that they were rolling

⁵⁰⁹ See Appendix 8, table 12.

⁵¹⁰ Public Announcement 1A/2007, Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 12, 7.2.2007.

⁵¹¹ The positions of Special Rapporteur of First Order and Second Order required fifteen years and seven years of experience respectively. Nevertheless, if there were no candidates with a relevant experience, the positions could be finally filled by candidates who had at least three years experience. Thus, the ranks of the positions would be converted to that of Special Rapporteur of Third Order.

⁵¹² Government Gazette, vol. C, no 459, 16.5.2008.

positions in the sense that the announcement gave the possibility to be equally filled by candidates fulfilling the selection criteria for the position of Special Rapporteur of Third Order. This might be an indication that no other appropriate candidates were found to fill the positions. Nevertheless, we found appointment decisions published in the government gazette⁵¹³ only for the twelve of the fifteen selected candidates, whereas there are no appointment decisions for the other three. The lack of appointment decisions implies that they denied their appointment, whereas one appointment decision was revoked⁵¹⁴. We located their career paths after the denial and revocation of the appointments. More specifically, SP9 was appointed as lawyer with a salary mandate at the legal service of the Greek Agricultural Insurance Organisation. SP13 and SP14 were appointed as lawyers with a salary mandate at the legal service of the Technical Chamber of Greece. SP15 succeeded in the entrance examination for Judicial Officials according to the table of final results published in the government gazette in March 2008. In 2010 she was appointed administrative judge at the Court of First Instance of Lamia. Finally, there was also one resignation. More specifically, SP7 resigned from the authority after his appointment as Lecturer at the Department of Law of the University of Thessaloniki in December 2010⁵¹⁵.

The denial of the appointment by the three lawyers, who were afterwards appointed as lawyers with a salary mandate to other public law legal entities, could have a logical explanation. They were probably discouraged from assuming duties at the authority since the lawyers who are appointed as members of the scientific staff of the constitutional independent authorities are suspended from the exercise of the profession of lawyer pursuant to article 4 par. 7 of the executive law of the Constitution 3051/2002.

Appendix 2, Table 3 contains detailed information on the professional background of the majority of the scientific personnel⁵¹⁶ before their appointment to the authority. There is also information on the parallel professional activity of some of them. Thus, six members of the scientific personnel were lawyers (SP1, SP3, SP9, SP13, SP14, and SP15). Five members of the scientific personnel were civil servants. More specifically, they had served in the following public services: (SP2) Secretariat of the Supreme Council for the Selection of Personnel; (SP5) Ministry of National Education and Religious Affairs; (SP6) Ministry of Foreign Affairs; (SP8) Ministry of the Interior, Public Administration and Decentralisation, and graduate of the National School of Public Administration; and (SP11) Ministry of Culture. One member of the scientific personnel (SP7) had previously worked as a researcher, whereas after his resignation from the authority, he followed an academic career. Two members of the scientific staff (SP11 and SP12) were adjunct professors, whereas SP4 had served as Deputy Consumer Advocate (2005-2008).

The member of the scientific personnel SP11, a specialist in informatics systems, presents an intense academic activity as adjunct professor in various higher education

⁵¹³ Appointment decisions for the following members of the specialised scientific personnel: SP1, SP2, SP3, SP4, SP5, SP6, SP7, SP8, SP9, SP10, SP11, and SP12 published in the Government Gazette, vol. C, no 885, 22.9.2008.

⁵¹⁴ Revocation of the appointment of SP9 published in the Government Gazette, vol. C, no 1043, 11.11.2008.

⁵¹⁵ Government Gazette, vol. C, no 1293, 31.12.2010.

⁵¹⁶ Those who denied their appointment are included.

institutions even while serving in the authority, as well as institutional and political involvement in public life. Table 8 shows the intensity of his academic activity as adjunct professor by chronological order based on his Curriculum Vitae uploaded on the Official Website of the Higher Technological Educational Institute of Chalkida, and the Official Website of the Greek Open University. During the academic year 2008-2009 he simultaneously served as adjunct professor in five higher education institutions while serving in the authority. As for his institutional involvement, he was appointed special collaborator, and member of project management groups at the Ministry of the Interior and the Ministry of Health and Social Solidarity. He was politically involved since he was appointed Special Advisor at the Ministry of Health and Social Solidarity in 2008. SP11 represents a case of functional accumulation.

Table 8 Academic activity of the member SP11 of the specialized scientific personnel

Academic Year	Department/Higher Education Institution
2004-2009	Department of Business Administration, Higher Technological Educational Institute of Chalkida
2005-2006	Department of Automation, Higher Technological Educational Institute of Chalkida
2005-2007	Adjunct professor at the School of Pedagogical and Technological Education
2006-2009	Department of Informatics, Undergraduate Programme, University of Piraeus
2008-2009	Department of Informatics, Postgraduate Programme, University of Piraeus
2007-2010	Department of Logistics, Higher Technological Educational Institute of Chalkida
2007-2009	The Hellenic Naval Academy
2009-2010	School of Social Sciences, Greek Open University

SP4 had political and institutional involvement. Interestingly enough, he had been appointed to governmental positions by both adversary political parties of New Democracy and PASOK. He was appointed as special scientist at the political bureau of the undersecretary of Health and Welfare (2001-2003), that is under the PASOK government, and special advisor at the political bureau of the Minister of Development (2004-2005). He was then appointed Deputy Consumer Advocate with a five-year mandate by the Minister of Development. However, he only served for the period 2005-2008. He submitted his resignation from the position after his appointment as member of the specialized scientific personnel of the Supreme Council for the Selection of Personnel. According to his Curriculum Vitae contained in the Annual Report of the Consumer Advocate, he was institutionally involved as President and member of legislative drafting committees of various ministries. Finally, he had civil society involvement since he has been General Secretary of Caritas Hellas.

SP12 has also served as adjunct professor at the University of Peloponnese (spring semester 2008), that is, before her appointment to the authority. She has also worked as adjunct professor at the Greek Open University during the academic year 2010-2011, namely, while she was serving in the authority. Before being hired to the authority, she had institutional involvement as member of the working group on the elaboration of an instruction manual for filling in the reports on Regulation Impact

Assessment. Finally, she was appointed as member of the management board of the Industrial Property Organisation with a three-year mandate in 2004 under the New Democracy government.

SP2 and SP4, and SP7 gave courses⁵¹⁷ at the National Centre for Public Administration while serving in the authority, whereas SP4 has been member of the teaching staff under contract at the National School for Public Administration and Local Government.

As for their level of education, they all have a postgraduate degree since it was a prerequisite for their selection. As for PhD degrees, SP2, SP7, SP11, and SP12 are PhD holders. SP4 was a PhD candidate, whereas we found no information for the other seven members of the specialized scientific personnel. Finally, the gender distribution of the scientific personnel is as follows: 67% are women, and 33% are men⁵¹⁸.

b. The Hellenic Data Protection Authority

A. The legal framework on the recruitment policies

I. The administrative personnel

The legal framework regarding the recruitment of the administrative personnel of the Supreme Council for the Selection of Personnel served as a model for the recruitment of the administrative personnel of the Secretariat of the Hellenic Data Protection Authority. Thus, on first implementation of the founding law 2472/1997⁵¹⁹, the positions of the heads of service units would be filled following a public announcement either through the transfer of civil servants possessing grade A, or its equivalent, coming from public services or public law legal entities, or through direct appointment. Direct hiring would take place only for the positions which would not be filled by transfer. The authority would select those transferred or directly appointed. The appointment of those selected by the authority would be effected by decision of the Minister of Justice, and the transfer by joint decision of the Minister of Justice, and the minister supervising the releasing agency without the opinion of the service council of the releasing agency. On first implementation of the law, the remaining positions of the administrative personnel of the Secretariat would be filled with the same procedure. Therefore, the recruitment of the administrative personnel fell under the absolute jurisdiction of the authority, and thus was excluded from the general recruitment system of the law 2190/1994.

The MP of the Communist Party of Greece, Stratis Korakas, during discussions in Parliament on the draft law “*Protection of the individual against the processing of personal data*”⁵²⁰, expressed his reservations over the transfer procedure. He claimed that it was not transparent since there were no selection criteria. Nevertheless, article 2

⁵¹⁷ The working relationship was under contract.

⁵¹⁸ See Appendix 8, table 12.

⁵¹⁹ Article 20, par. 6 of the law 2472/1997.

⁵²⁰ Minutes of Parliament, 9th Period (of Presidential Parliamentary Democracy), First Assembly, Session 100 discussion and debate in particulars, March 19, 1997, p. 4960, available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/19_03_97.pdf, date of access: 10.07.2010

of the draft law provided that all the issues regarding the organization of the Secretariat, and its personnel would be regulated by a Presidential Decree issued on the proposal of the Ministers of the Interior, Public Administration and Decentralisation, Finance, and Justice upon recommendation of the authority. Indeed, the formal qualifications of the candidates to be appointed or transferred, that is, the selection criteria, were explicitly set forth in the Presidential Decree 207/1998⁵²¹. However, it did not provide for a grading system in relation to these criteria. The said Presidential Decree defined the positions of the organisational chart of the administrative personnel⁵²² as well as the formal qualifications, and other additional selection criteria. Thus, all the positions⁵²³, apart from the relevant diplomas as prescribed in the qualifications indexes, additionally required the excellent knowledge of one foreign language, and the use of computers⁵²⁴.

After the Constitutional revision of 2001, the selection of the administrative and scientific personnel of the authority fell under the ambit of par. 1 of article 4 of the executive law 3051/2002 of the Constitution. The selection criteria remained under the jurisdiction of the authority, as prescribed in its organisational chart, whereas a member of the Supreme Council for the Selection of Personnel and a judge of the Supreme Courts participated in the selection committee. Finally, pursuant to par. 1d, article 1 of the law 3812/2009, the authority was included in the group of public sector bodies that fell under the ambit of the general recruitment system applied in the public sector.

II. The Auditors: the scientific personnel of the authority

Apart from the administrative personnel of the authority, the scientific personnel, that is, the Auditors, are regular civil servants. It seems that the common legislator preferred the service status of permanent tenure for the scientific personnel of the authority in relation to that of private law contract of indefinite time provided for in article 3, par. 3 of the Constitution. Thus, the common legislator bypassed the constraints of the said article of the Constitution regarding the working status of the

⁵²¹ Government Gazette, vol. B, no 164, 15.07.1998.

⁵²² The administrative personnel were distributed by categories and branches as follows: U.E. Communication (5 positions), U.E. Administration-Finance (2 positions), U.E. Informatics (1 position), T.E. Informatics (1 position), S.E. Administration-Accounting (4 positions), C.E. Caretakers (2 positions), and C.E. Cleansing Personnel (2 positions). The category and branch U.E. Communication was new, and it was created for the special needs of the authority. It was not provided for in the qualifications indexes of the Presidential Decrees 194/1988, 172/1992, and 368/1992 which defined the civil servants' formal qualifications by category and branch. The positions of U.E. Communication may be filled by candidates who have a university degree in communication, journalism and mass media, translation, social and literature sciences. Excellent knowledge of a foreign language and the use of computer were additional compulsory qualifications. The knowledge of other foreign languages was also assessed, whereas the public announcement might provide for relevant experience as an additional qualification. The number of the positions was increased by the Ministerial Decisions of the Ministers of Finance no 3984 in 2004 (G.G. vol. B, no 1803, 6.12.2004), and no 2/63286/0021 in 2010 (G.G. vol. B, no 1666, 20.10.2010). Six new positions were created in the organisational chart in 2004, and were distributed as follows: U.E. Communication (1), U.E. Administration-Finance (1), T.E. Informatics (1), S.E. Administration-Accounting (1), S.E. Telephone Operators (1), and S.E. Driver (1). Six new positions were provided for in the ministerial decision of 2010, whereas they are chronologically distributed as follows: 5 positions from January 1, 2011: U.E. Administration-Finance (2), T.E. Administration-Finance (3), and 1 position from January, 2013: T.E. Administration-Finance.

⁵²³ The positions C.E. Caretakers and C.E. Cleansing Personnel were exempted.

⁵²⁴ The positions U.E. Informatics and T.E. Informatics were exempted.

scientific personnel by creating a new branch in the category of university education, namely U.E. Auditors. Interestingly enough, nowhere in the legislative texts on the authority do we find the term “specialised scientific personnel”. Only in the first annual report of the authority in 1999⁵²⁵ do we have evidence that the Auditors constitute the specialized scientific personnel in the protection of personal data.

The Auditors are selected by the authority either through selection or examination following a public announcement⁵²⁶. The MP of the Communist Party of Greece, Stratis Korakas, during discussions in Parliament on the draft law “*Protection of the individual against the processing of personal data*”⁵²⁷, expressed his reservations in relation to the competence of the authority to select the auditors. He based his argumentation on the fact that the Auditors audited the authority itself in relation to the processing of personal data, and thus the audited agency appointed its own auditors. Lawyers, who are appointed as Auditors, are suspended from the exercise of the profession of lawyer during their mandate⁵²⁸. The heads of the Directorate of the Secretariat and the Department of Auditors are selected from the branch of Auditors⁵²⁹. The service council of the authority may decide on the reclassification of employees from other branches to vacant positions of the organisational chart of the branch of Auditors, in case they possess the qualifications of the branch⁵³⁰.

The Presidential Decree 207/1998⁵³¹ defined the positions of the organisational chart of the scientific personnel, as well as the formal qualifications and other additional selection criteria. The positions of the organisational chart for the category and branch U.E. Auditors were 13⁵³², whereas they entered the service with grade B. The positions of U.E. Auditors may be filled by candidates who have a university degree of science and technology direction or theoretical direction, and a postgraduate or a PhD degree in Informatics, Computers Science, Legal Informatics, or other legal branches relevant to the subject of the authority, or to a specialised branch of the above. Excellent knowledge of a foreign language and the use of computers are considered as compulsory selection criteria. The knowledge of other foreign languages as well as the professional or research experience in the relevant fields would be evaluated. Finally, the public announcement may comprise, as additional qualifications, proved training in data protection, security and audit of informational

⁵²⁵ The Annual Report for the year 1999, available at:

http://www.dpa.gr/pls/portal/docs/PAGE/APDPX/ANNUALREPORTS/AR1999/DPA_ANNUAL_REPORT_1999.PDF, date of access: 4.9.2011.

⁵²⁶ Article 20, par. 3 of the law 2472/1997.

⁵²⁷ Minutes of Parliament, 9th Period (of Presidential Parliamentary Democracy), First Assembly, Session 100 discussion and debate in particulars, March 19, 1997, p. 4960, available at: http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a-09f4c564609d/19_03_97.pdf, date of access: 10.07.2010

⁵²⁸ Article 16, par. 10 of the law 2703/1999.

⁵²⁹ Par. 1, article 6 of the Presidential Decree 207/1998.

⁵³⁰ Article 9 of the Presidential Decree 207/1998.

⁵³¹ Article 5 of the Presidential Decree 207/1988.

⁵³² The number of the positions of the Auditors was increased by the Ministerial Decisions of the Ministers of Finance no 3984 in 2004 (G.G. vol. B, no 1803, 6.12.2004), and no 2/63286/0021 in 2010 (G.G. vol. B, no 1666, 20.10.2010). Fourteen new positions were created in 2004. Nineteen new positions were provided for in the ministerial decision of 2010, whereas they are chronologically distributed as follows: 10 positions from January 1, 2011, 5 positions from January 1, 2012, and 4 positions from January, 2013.

systems. After the Constitutional revision of 2001, the selection of the administrative personnel of the authority fell under the ambit of the executive law 3051/2002 of the Constitution⁵³³.

B. Analysis of the empirical data

I. The administrative personnel

Contrary to the long-lasting practice of transfers of the administrative personnel adopted by the Supreme Council for the Selection of Personnel, transfers represent only 14% (4 of 28) of the recruitment policy followed by the Hellenic Data Protection Authority, whereas the overwhelming majority of the personnel, that is, 86% (24 of 28) are appointed through direct hirings. As for the transfers, the Heads of two departments, namely the Department of Communication and the Department of Administrative and Financial Affairs, were transferred from the Prosecution Office of the Hellenic Supreme Court of Civil and Penal Law (AP1), that is a judicial employee, and the Ministry of Health and Welfare respectively (AP2). They both possessed grade A. One employee (AP4) (Grade B, UE Administration-Finance) was transferred from the General Army Staff (Ministry of National Defence), whereas one position of the Category & Branch C.E. Curator was filled by a transfer from the Prefectural General Hospital of Melissia “A. Fleming” (AP3). No legality issues on the transfers are raised with the exception of one controversial case. The legality of transferring a judicial employee is dubious, and has been extensively discussed in the unit regarding the Supreme Council for the Selection of Personnel.

All the other positions were filled by direct hiring following a public announcement (24 employees). The authority published a public announcement for the recruitment of two C.E. Curators in the Government Gazette for the first time in 2007. As for the candidates’ qualifications, certain social criteria⁵³⁴ were combined with the possession of a compulsory education diploma and, at least the good knowledge of a foreign language, preferably English. The public announcement did not provide for i) a grading system for the assessment of these criteria, and b) a mechanism for the submission of an appeal against the results. A second open procedure to fill one position of the category and branch S.E. Administration-Accounting took place in 2008 and was also published in the Government Gazette. A grading system for each one of the selection criteria and the right to appeal were provided for in the public announcement of 2008. All the previous public announcements had been published in daily newspapers. Table 9 shows the level of education of the administrative personnel. The graduates of secondary education represent almost a third of the administrative personnel⁵³⁵. In our opinion, the policy of filling a high percentage of the positions of specialized agencies by secondary education graduates seems unjustifiable. Three employees of the administrative personnel (AP8, AP18, AP22) are PhD holders, whereas we do not have any information on whether there are any employees with postgraduate degrees.

⁵³³ Article 4, par. 1 of article 4 of the executive law 3051/2002 of the Constitution.

⁵³⁴ As social criteria are considered members of large families (candidates may be parents having more than three children, as well as children coming from these large families) and orphans.

⁵³⁵ See Appendix 9, table 1 on the specialization of the administrative personnel.

Table 9 The level of education of the administrative personnel*

	<i>University Education</i>	<i>Technological Education</i>	<i>Secondary Education</i>	<i>Compulsory Education</i>
% of the administrative personnel by level of education	47% (13 of 28)	7% (2 of 28)	32% (9 of 28)	14% (4 of 28)

* Those resigned are included.

Source: The Government Gazette

As for the in-service mobility of the administrative personnel, three members of the administrative personnel were reclassified: two employees of the category and branch C.E. Curators (AP3 and AP15) were reclassified to the category and branch of S.E. Telephone Operator and S.E. Driver respectively⁵³⁶. The vacant positions of C.E. Curators were filled by new appointees (AP25, AP26). The employee AP9 became member of the specialised scientific personnel.

As for secondments to other agencies, 1 employee (AP4) was seconded to the Greek Ombudsman for the period 2002-2003 according to the annual reports of the Greek Ombudsman for the years 2002 and 2003. One employee (AP7), immediately after her appointment, was seconded to the political bureau of the Minister of Culture (2000-2001), which might be an indication of party affiliation. The secondment was revoked in 2001, since she submitted her resignation from the authority.

Resignations and new appointments in the public sector are not rare. The employee AP22, a PhD holder, appointed in 2006, resigned from the authority after her election as Lecturer –a tenured position- at the Department of Foreign Languages, Translation and Interpretation of the Ionian University in 2010. Another employee of the category and branch S.E. Administration-Accounting (AP27) resigned shortly after being hired since she was appointed to the General Hospital “Papageorgiou” of Thessaloniki. One employee of the category and branch S.E. Administration-Accounting (AP21) also resigned two years after her selection and appointment to the authority. She was appointed to the General Hospital “Attikon”.

Since 2009 two employees of secondary education (AP29, AP30) have been working on secondment from the Ministry of Justice, and the University of the Aegean. Finally, the gender distribution of the administrative personnel is as follows: 7% are men, and 76% are women.

II. The Auditors: the scientific personnel of the authority

The first public announcement for the selection of the specialized scientific personnel to the authority was published in the government gazette in 2007⁵³⁷, whereas the second one was published in 2008⁵³⁸. The selection criteria were defined pursuant to article 5 of the Presidential Decree 207/1998, and article 4 of the executive law of the

⁵³⁶ See Appendix 9, table 2.

⁵³⁷ Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 110, 8.5.2007.

⁵³⁸ Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 511, 6.10.2008.

Constitution 3051/2002. The public announcement in 2007 neither contained a grading system for the rating of each one of the selection criteria nor provided for the submission of an appeal. On the contrary, a grading system and the right to appeal were provided for in the public announcement of 2008. All the previous public announcements had been published in daily newspapers.

We have identified 42 Auditors -26 legal auditors and 16 informatics auditors- starting from the beginning of the operation of the authority in 1999 until December 31, 2010. However, the total number of the positions of the organisational chart to be filled was 27 positions. What happened with the remaining fifteen auditors? Throughout this period, five selected candidates denied their appointment, whereas ten Auditors resigned from the authority. This negative situation for the effective operation of the authority had already been stressed in the Annual Reports for the years 2005, 2006, and 2007. More specifically, the Annual Report for the year 2007⁵³⁹ stated that the authority found difficulties in attracting and taking advantage of a high-quality specialised personnel because of the unfavourable working conditions, that is, i) lower remuneration compared to that of other independent authorities and agencies of the public sector for positions of equivalent qualifications, ii) fewer vacant positions in the organisational chart from those required for the proper operation of the authority, and iii) no appropriate promotions system for the auditors.

Resignations and denial of appointments of the selected candidates are not rare⁵⁴⁰. We have identified their career paths. SP9, SP17, SP24, SP29 preferred to continue their careers in other agencies of the public sector. SP8, SP22 worked as free-lance lawyers, whereas SP31 became a notary. SP14, SP25 and SP16 followed an academic career. SP2 and SP18 continued their careers abroad: SP2 became Officer of the Data Protection Unit of EUROPOL, whereas SP18 is working in a German Law Firm developing comprehensive legal, tax, finance, and management solutions. SP33 continued her studies abroad⁵⁴¹, whereas SP21 was parliamentary candidate with the party of New Democracy in the national elections of 2007. He also worked as Adjunct Professor, and was appointed in various committees under the New Democracy Government. We did not manage to gather information on SP28. As for the auditors' level of education, they all possess postgraduate degrees, whereas a significant number of auditors have PhD degrees: 44% (12 of 27) of the auditors serving in the authority by 31.12.2010, and 53% (8 of 15) of those who resigned or denied their appointment⁵⁴².

A number of auditors were also seconded to other Hellenic or European Agencies. The Annual Report for the year 2007 links the auditors' temporary mobility towards other agencies to their low remuneration in the authority. These secondments were compulsory since the opinion of the service council of the authority was not required. We have identified the following secondments to other Hellenic or European Agencies: SP18 and SP36 served as seconded trainees to the European Data

⁵³⁹ Annual Report for the year 2007, available at:

http://www.dpa.gr/pls/portal/docs/PAGE/APDPX/ANNUALREPORTS/AR2007/DPA_ANNUAL_REPORT_2007.PDF, date of access: 4.9.2011.

⁵⁴⁰ See Appendix 9, tables 3 and 4 on the career paths they followed.

⁵⁴¹ She was a PhD Candidate at the Centre for Studies and Research in Public Economic Law at Sorbonne-Paris.

⁵⁴² See Appendix 9, tables 5 and 6.

Protection Supervisor for the periods: Oct. 2005-Feb. 2006 and Oct. 2006-Feb. 2007, respectively; SP4 was seconded as National Expert to the European Commission (2007-2010); SP7 was seconded as National Expert on data protection and informatics to the Council of Europe and to the Ministry of the Interior, Decentralisation, and Electronic Governance.

As for their involvement in public life, the auditors SP11, SP13, SP20, SP32, SP39 have participated as members or alternate members of special legislative drafting committees on issues related to data privacy. SP1, the Director of the Secretariat, have been working as adjunct professor at the Department of Informatics of the Greek Open University since 2000. The auditors SP1 and SP5 gave courses at the National Centre of Public Administration in 2011. SP21 has also worked as adjunct professor at the University of Thrace while he was serving in the authority. He was also member of the teaching staff under contract at the Greek Police Academy. As for his institutional involvement he was appointed to the following committees: i) member of the management board - representing the Ministry of National Education and Religious Affairs- of the non-profit Public Entity under Private Law, Centre for the Re-integration of ex-prisoners with a three-year mandate (2009), ii) member of the Management Board of the Institute for Defense Analyses (2006), and iii) member of the Scientific Council of the Institute for Defence Analyses (2008). SP42 has worked as adjunct professor at the Department of Informatics at the Technological Educational Institute of Athens, while serving in the authority (academic year 2010-2011). He has also worked as adjunct professor at the Department of Informatics and Computer Technology at the Technological Educational Institute of Lamia (2005-2007, 2008-2009) and at the Department of Informatics at the Technological Educational Institute of Athens (2008-2009), before his appointment to the authority. As for their involvement in civil society, SP4 has been Vice-President of the Executive Board of the European Association for the Defence of Human Rights (AEDH) for the period 2008-2010, and is a member of the Hellenic League for Human Rights.

We have identified the following cases of party affiliation and trade unionism: The auditor SP21 was Parliamentary Candidate in the National Elections of 2004 and 2007 with the party of New Democracy, that is, before his appointment and after his resignation from the authority. He withdrew his candidacy in the National Elections of 2010; the auditor SP16, two years after her resignation, was a political appointee to the General Secretariat of the Government as Head of the Office for International and European Union Issues by decision of the Prime Minister Georgios Papandreou (PASOK); the auditor SP23, before her appointment to the authority, had participated in the elections of the Thessaloniki Bar Association with the party "Avant Garde Lawyers" in 2004.

Finally, the gender distribution of the scientific personnel is as follows: 43% are men, and 57% are women.

c. The Greek Ombudsman

A. The legal framework on the recruitment policies

I. The administrative personnel

The common legislator adopted two recruitment policies in relation to the administrative personnel of the Secretariat of the Greek Ombudsman. The recruitment policy from the beginning of the operation of the authority in 1998 until 2007 was exclusively based on transfers, and secondments which could be revoked any time. From 2007 onwards, a combination of recruitment policies coexists, namely, transfers and secondments, and direct hirings.

The founding law of the authority, that is, the law 2477/1997, set the recruitment framework that excluded direct hiring⁵⁴³. On first implementation of the law, the positions of the Secretariat could be filled through transfers or secondments of employees from public services⁵⁴⁴ following a public announcement. The seconded employees should have the qualifications for the position to which they were seconded. The Presidential Decree 273/1999 on the Regulations of the Greek Ombudsman specified that the public announcement should be published in at least one daily newspaper stating the following: i) the positions to be filled through transfer or secondment, ii) the required formal and substantial qualifications, iii) the deadline within which the candidates should submit their applications, and iv) the supporting documents or any documents that have to be submitted with the application.

The transfer or secondment is decided by joint decision of the Minister of Interior, Public Administration and Decentralisation and the competent Minister in each case, without the opinion of the service council or any other council of the releasing agency, in derogation of the general and special provisions in force. The secondment may be revoked at any time, and in any case the resulting vacancy shall be filled. This clause is really innovative since the duration of a secondment, which is time-limited, is always defined in such cases. On the other hand, a secondment may be revoked when the need for the secondment ceases to exist. However, the clause clearly states that the vacancy shall be filled. Therefore, could this revocation “at any time” be linked to the improper way a seconded employee exercises his duties? And if so, the criteria for the improper exercise of duties remain unknown.

The Secretariat is supervised by a Director. He/she is a permanent civil servant, a university graduate qualified for promotion to the rank of Director pursuant to the relevant provisions of the Civil Servants’ Code. The Director was selected by the Ombudsman for a three-year term from the candidates who applied following a public announcement published in two daily newspapers. Those interested should submit an application for selection within a time limit specifically defined for this purpose in the public announcement. The time limit could not be shorter than ten (10) days. The public announcement defined the field or fields and possibly the specific expertise required from the candidates, the formal and substantial qualifications the candidates should possess, as well as certificates that should be attached to the application. The

⁵⁴³ Article 5, par. 4 of the law 2477/1997.

⁵⁴⁴ Par. 5, article 6 of the law 2623/1998 provided that the seconded employees may come from the public sector in general.

Director was seconded for a term of three years by decision of the Minister of the Interior, Public Administration and Decentralisation without the opinion of the service council of the releasing agency in derogation of the provisions in force. As for the positions of the heads of the units of the Secretariat, they could also be filled by seconded employees. The secondment ended ipso jure with its revocation. However, the practice of the secondment of the Director was abandoned since the law 3094/2003 provided that the Director would be transferred following a public announcement⁵⁴⁵.

The seconded employees enjoy a privileged remuneration status⁵⁴⁶. Furthermore, the period of their secondment to the authority is considered as a period of service in a position of a head of department⁵⁴⁷. Thus, the measure enables them to get easier promoted to their agency of provenance since having served in a position of head of department is one of the criteria for promotion in the public service. The transitional clause of the executive law 3051/2002 permitting the conversion of secondments to transfers for those employees who were seconded to the constitutional independent authorities by the time of the regulation was not only problematic in terms of the silent conversion of the transferred employees' working status previously analysed in the unit for the Supreme Council for the Selection of Personnel. It also contained a puzzling point relating to the contracting parties for the issue of the administrative act of the transfer decision. The administrative act of the transfer had a unilateral

⁵⁴⁵ Par. 7 of article 5 of the law 3094/2003 reads as follows: *"The Secretariat of the authority shall be headed by a public servant of the category of University Education with the grade of Director of article 79, par. 2 of the Civil Servants Code (Law 2683/1999). The position of Director, established by the present article, shall be filled by decision of a special council constituted by the Ombudsman as President and the Deputy Ombudsmen as members, following a candidacy application submitted within an exclusive deadline defined in the public announcement to the interested parties. The application is accompanied by a CV whose content is consistent with the information contained in the employee's personal service record. Permanent civil servants of the category of University Education coming from public services, public law legal entities, local government agencies, and independent authorities who have the qualifications for promotion to the grade of director pursuant to par. 2 of article 82 of the Civil Servants Code (Law 2683/1999) have the right to submit candidacy applications. The Special Council invites the candidates for an interview in order to formulate an opinion about their abilities and personality in relation to the execution of their duties. The provisions of par. 1 of this article regarding the taking into account and the concept of experience shall apply accordingly for the selection of the director. The employee who shall be selected as set forth above for the position of director shall be transferred in derogation of any general or specific provision by decision of the competent Minister without the opinion of the service council and is promoted by means of the same decision to the grade of director. On first implementation of the present clause, the selection of the employee who shall fill the post of director shall take place within two (2) months from the coming into force of this law. The secondment of the director in accordance with par. 3 of article 5 of the law 2477/1997 shall end as soon as the above transfer has been completed and the period of this secondment is considered, for all intents and purposes, as a period of service in a position of the grade of director of article 79 of the Civil Servants Code (Law 2683/1999)".* As for the concept of experience previously mentioned, par. 1 of the said article of the law defines it as follows: *"Experience is a feature particularly appreciated in the evaluation of the candidates. Experience is considered the exercise of work related to the object of the vacant post to be filled or the employment in an independent authority with a mission similar to that of the Ombudsman"*.

⁵⁴⁶ Pursuant to article 8, par. 6 of the law 2623/1998, those seconded to the authority receive their salary and any additional regular payments, as well as all the regular allowances of their main position regularly paid, which continue to be paid by the service from which they are seconded. Furthermore, they receive from the authority a special allowance which is defined, in derogation of the provisions in force, by joint decision of the Ministers of the Interior, Public Administration and Decentralisation and Finance.

⁵⁴⁷ Article 8, par. 1 of the law 2880/2001.

character, that is, it is a decision signed by the competent ministers or the organs of administration of the releasing legal entities without the joint action of the Minister of the Interior, Public Administration and Decentralisation representing the authority. According to the adopted administrative practice, the transfer decisions constitute a bilateral administrative act signed by the Minister supervising the releasing agency, and the Minister supervising the receiving agency. Moreover, the arrangement permitting the transfer decisions to be signed by the heads of administration of public law legal entities instead of the Ministers supervising these agencies seems equally problematic. Finally, the clause is in contradiction with article 5, par. 4 of the law founding law 2477/1997 regarding the type of the administrative act.

Article 14, par. 2 of the law 3345/2005 also permitted the conversion of secondments to transfers for the second time after the legislative regulation of the law 3051/2002. The seconded employees who were serving in the authority by 31.1.2005 could be transferred, upon application, to vacant positions of the organisational chart or personal positions of a branch equivalent to the branch or specialty where the transferred employee was serving.

The Presidential Decree 273/1999 on the Regulations of the Greek Ombudsman established 30 positions for the permanent administrative personnel⁵⁴⁸. The ministerial decision no 2/37007 of 30.9.2008 increased their number, that is they became 47⁵⁴⁹. The qualifications required for the appointment in the positions are those defined by the Presidential Decree 194/1988, as amended by the Presidential Decree 50/2001, and in addition very good knowledge of computers. After the Constitutional revision of 2001, the selection of the administrative personnel of the authority fell under the ambit of the executive law 3051/2002 of the Constitution⁵⁵⁰.

Apart from the positions of the administrative personnel, the law 2623/1998⁵⁵¹ established seven positions for personnel on private law contract⁵⁵². Three positions

⁵⁴⁸ The 30 positions of the organisational chart were distributed as follows: 6 positions U.E. Administration-Finance, 3 positions U.E. Communication, 3 positions U.E. Informatics, 3 positions T.E. Administration-Accounting, 2 positions T.E. Informatics, 9 positions S.E. Administration-Finance, 2 positions S.E. Drivers, 2 positions C.E. Auxiliary Personnel. The qualifications required for appointment in the positions U.E. Communications is a university degree in the field of communication, journalism and mass media. Excellent knowledge of at least one foreign language (english-french-german), defined every time in the announcement for the submission of applications, as well as very good knowledge of computers. On first application of the law, the positions U.E. Communication may be filled by seconded employees with a university degree in the field of Administration-Finance, or other fields of university level, possessing the corresponding qualifications and excellent knowledge of English, French, or German. The foreign language is specified in the public announcement for applications.

⁵⁴⁹ The 47 positions were distributed as follows: 11 positions U.E. Administration-Finance, 1 position U.E. Economist-Statistician, 3 positions U.E. Informatics, 1 position U.E. Interpreters, 1 position U.E. Librarians-Archivists, 1 position U.E. Engineers, 6 positions T.E. Administration-Accounting, 3 positions T.E. Informatics, 8 positions S.E. Administrative Secretaries, 1 position S.E. Informatics, 2 positions S.E. Computer Operators, 3 positions S.E. Telephone Operators, 1 position S.E. Drivers, 2 positions C.E. Auxiliary Personnel. The qualifications required for appointment in the position U.E. Economist-Statistician is a university degree in the field of Statistics or Statistics and Actuarial Science or Statistics and Insurance Science, excellent knowledge of English, French, or German, and knowledge of computers.

⁵⁵⁰ Article 4, par. 1 of article 4 of the executive law 3051/2002 of the Constitution.

⁵⁵¹ Article 8, par. 1 of the law 2623/1998.

are distributed to the bureau of the Ombudsman, and one position to the Bureau of each Deputy Ombudsman. The Ombudsman and each Deputy Ombudsman proceed to the recruitment of the personnel on a case by case basis through a relevant act without any procedure. Their remuneration is defined by joint decision of the Ministers of the Interior, Public Administration and Decentralisation, and Finance in derogation of the provisions in force. The hired personnel resign *ipso jure* simultaneously with the retirement, for whatever reason, of the organ that hired them, with no other procedure. Serving in these positions does not create any right for compensation or other claim or privilege. In other words, the working status of the personnel is equivalent to that of the revocable employees of article 103, par. 5 of the Constitution. These positions may also be filled by secondment of employees from the public sector. The secondment takes place, upon request of the Ombudsman, by joint decision of the competent Minister and the Minister of the Interior, Public Administration and Decentralisation, in derogation of the provisions in force.

The ministerial decision no 2/37007 of 2008, amending the regulations of the Ombudsman, established six additional positions of permanent personnel for the administrative support of the Secretariat of each Deputy Ombudsman. Finally, the law 3812/2009 abolished the autonomous selection procedure of the administrative personnel that fell under the ambit of the general recruitment system.

II. The scientific personnel

The common legislator introduced three innovative measures in relation to the scientific personnel of the authority. These arrangements were never implemented to the other constitutional independent authorities under research. First, apart from direct hiring, the personnel from both categories could also be seconded from the public sector. Second, a subcategory of the scientific personnel was created, the auxiliary scientific personnel. Third, they were hired on private law contracts for a term of five years, which could be renewed. Interestingly enough, the second and third arrangements were finally abolished.

The law 2477/1997⁵⁵³ established 30 positions for the special scientific personnel, as defined in the law 1943/1991⁵⁵⁴, on a private law contract for a term of five years, which could be renewed. The positions would be filled following a public announcement for the submission of applications. The pre-selection among the candidates is effected by the Ombudsman, whereas the selection is assigned to a five-member committee, whose composition is determined by the Ombudsman. The committee is constituted by the Ombudsman, two Deputy Ombudsmen, a university professor, and one judge of the Supreme Courts. The committee assesses the formal and substantial qualifications of the candidates and their personality by means of a public interview. Lawyers may be hired for the above positions under the same procedure in derogation of the provisions in force. The appointment of a lawyer entails the suspension of his professional functions. The special scientific personnel

⁵⁵² A new position was established by article 7 par. 3 of the law 3094/2003 for the Secretariat of the Deputy Ombudsman for the Children's Rights. Finally, one more position was established by article 13, par. 7 of the law 3488/2006 for the Secretariat of the Deputy Ombudsman for Gender Equality.

⁵⁵³ Article 5, par. 1.

⁵⁵⁴ Article 25, par. 2 of the law 1943/1991 defined the qualifications for the appointment to positions of special scientific personnel.

are appointed by decision of the Minister of the Interior, Public Administration and Decentralisation.

To the Ombudsman could be seconded up to forty civil servants, either permanent or on private law contract of indefinite time, coming from public services, public law legal entities, banks controlled by the State, or other public sector bodies, who fulfilled the requirements of par. 2 of article 25 of the law 1943/1991⁵⁵⁵ or civil servants who were university graduates with at least eight years in service. Their selection followed the procedure provided for the directly hired special scientific personnel. The secondment was effected by joint decision of the Minister of the Interior, Public Administration and Decentralisation and the competent Minister in each case, without the opinion of the service council of the releasing agency in derogation of the provisions in force. The secondment lasted three years and could be renewed once. The secondments were renewed twice through legislative regulation⁵⁵⁶.

Interestingly enough, par. 4 of article 8 of the law 2623/1998 established thirty positions of the new subcategory of the auxiliary scientific personnel on private law contracts of indefinite time for a term of five years, which could be renewed. A university degree and the very good knowledge of a foreign language were defined as the required qualifications for the hiring or the secondment to these positions. The required formal qualifications and the foreign language would be specified every time by the public announcement issued by the Ombudsman.

All necessary details for the procedure of hiring or seconding the special and auxiliary scientific personnel were defined in the regulations of the Greek Ombudsman contained in the Presidential Degree 291/1998. The stages of the pre-selection and selection procedures were fully described. However, the regulations did not contain a grading system for each one of the selection criteria. As for the remuneration of the seconded scientific personnel of both categories, they enjoyed the same privileged payment status as the seconded administrative personnel of the authority.

The law 3013/2002⁵⁵⁷ decreased the number of the positions of the seconded scientific personnel by 15, whereas the positions of the scientific personnel were increased by 15, and thus became 45. The law also set age limits for the positions of both categories of the scientific personnel, that is, only candidates under fifty years of age could be seconded or appointed to the authority. As for the composition of the selection committee, one of its members, the judge of the Supreme Courts, was replaced by a university professor.

The law 3094/2003⁵⁵⁸ introduced the working status of private law contracts of indefinite time for the special and the auxiliary scientific personnel of the authority. It established 75 positions of special scientific personnel and 50 positions of auxiliary

⁵⁵⁵ The article describes the requirements for the positions of the special scientific personnel in public administration.

⁵⁵⁶ The first three-year renewal of the secondments (1.1.2002-31.12.2004) was provided for in article 28 par. 3 of the law 3013/2002, whereas the second renewal was provided for in article 14 par. 1 of the law 3345/2005 (1.1.2005-31.12.2007). Par. 3 of article 5 of the law 3094/2003 provides that the secondments may be renewed more than once.

⁵⁵⁷ Article 25, par. 2.

⁵⁵⁸ Article 5 par. 1.

scientific personnel. The provisions on maximum age-limit were abolished. However, the status of pensioner constitutes an impediment for appointment to these positions. Lawyers may also be appointed to the positions of auxiliary scientific personnel with suspension of their professional functions. As for the required qualifications, experience is particularly appreciated in the assessment of the candidates. Experience is considered the exercise of work related to the object of the vacant post to be filled or the employment in an independent authority with a mission similar to that of the Ombudsman.

A public announcement is issued for the positions of the special and the auxiliary scientific personnel, and is published in at least two newspapers of Athens with wide circulation, whereas the principles of publicity, transparency, objectivity, and meritocracy are respected in any case. The announcement may, each time, specify the required basic and postgraduate degrees, and define the foreign language and level of proficiency, the required experience, as well as the knowledge of computers. For all the selection issues regarding the personnel which are not included in the announcement or regulated by the article of the law, the provisions of the Presidential Decree 291/1998 “Regulations on the recruitment procedure of the Ombudsman’s personnel” apply. Finally, the final and transitional provisions⁵⁵⁹ provided that for the first recruitment to the posts of the special and the auxiliary scientific personnel, following the entry into force of the law 3094/2003, the selection committee would be composed of the Ombudsman, two university professors and two active or former members of independent administrative authorities.

The law 3448/2006⁵⁶⁰ abolished the subcategory of the auxiliary scientific personnel through the promotion of those serving as members of the auxiliary scientific personnel to positions of the special scientific personnel. The vacant positions of those promoted were converted to positions of special scientific personnel. The law regulated the promotion procedure⁵⁶¹.

i. Three innovative measures in the recruitment of the scientific personnel: searching for some answers for their introduction

Why did the common legislator proceed to the introduction of these three innovative measures in relation to the scientific personnel of the Greek Ombudsman? The analysis following hereafter attempts to approach and interpret the issue. The invention of the subcategory of the auxiliary scientific personnel seems arbitrary, and

⁵⁵⁹ Article 7, par. 4.

⁵⁶⁰ Article 22.

⁵⁶¹ The promotion procedure was as follows: those serving in positions of the auxiliary scientific personnel would be judged, upon application, for their promotion to a position of a special scientist, without public announcement of the relevant position, in case they fulfilled the qualifications defined in the civil servants’ qualifications index in force, and had successfully served for at least three years as members of the auxiliary scientific personnel. They would be judged by the selection committee provided for in article 1 of the law 3094/2003 after a public interview of the applicant in front of the committee. Those promoted would fill positions of the special scientific personnel, and the Ombudsman would issue a relevant act. Those who failed to get promoted could submit a new application only once one year at least after, and in any case, before the completion of three years since the rejection of the first application. The positions of those whose applications were rejected for a second time, or those who had not submitted an application for promotion until the date they would have completed three years in service starting from the coming into force of the law, were converted to special personal positions of the auxiliary scientific personnel

this might explain its abolition in 2006. Indeed, this category of personnel is not provided for in the Constitution or the common legislation. Interestingly enough, the regulation for its establishment was not contained in the founding law of the institution of the Greek Ombudsman in 1997. It was introduced in the law 2623/1998 as a supplementary provision of the founding law together with the establishment of the seven positions for employees on private law contract for the bureaus of the Ombudsman and Deputy Ombudsmen. And it was finally abolished though an innovative promotions procedure by the time when the members of the auxiliary scientific personnel had already obtained a three-year experience in the authority.

A reason that might explain the introduction of the measure could be the rigidity of the civil servants' qualifications index in force in relation to the required qualifications for the positions of the special scientific personnel. More specifically, article 26 of the Presidential Decree 194/1988 regarding the qualifications of the special scientific personnel reads as follows: *"1. The positions of the Special Scientific Personnel on private law contract shall be filled by graduates with a national university diploma or an equivalent diploma of a foreign university and special scientific expertise in the subject area of the relevant specialty proved through i) a PhD degree of a national university or an equivalent degree of a foreign university, or ii) a postgraduate degree of a duration of at least one year of a national university or an equivalent degree of a foreign university and experience of at least two years after the acquisition of the postgraduate degree, or iii) experience of at least four years after the acquisition of the main university degree, and at least one publication in a scientific review on an issue relevant to the content of the specialty. The excellent knowledge of a foreign language is additionally required in case the main degree, or the postgraduate degree, or the PhD is not acquired in a foreign university"*.

It is obvious that the standards set by the civil servants' qualifications index for the appointment to positions of the special scientific personnel were high, and therefore consistent with the concept of expertise. The introduction of the new category of the auxiliary scientific personnel was probably the result of the fear that few candidates could meet the qualifications of the Presidential Decree 194/1988 in force by the time of the first recruitments to the authority. It seems no incidental that the new Presidential Decree 50/2001, which replaced the Presidential Decree 194/1988, presents greater flexibility in relation to the combination of the required qualifications for the category of the special scientific personnel. Despite the fact that the required qualifications remain the same, an additional paragraph in the clause relaxes its rigidity as follows: *"The public announcement for the positions to be filled defines the relevant acceptable main degrees or diplomas for each position. It may additionally define every time the required foreign language or more foreign languages, the level of their proficiency, additional experience in the case that the expertise is proved by a PhD, as well as for all or part of the positions the public announcement may selectively require only some of the qualifications i, ii, iii of paragraph 1b⁵⁶²".* Therefore, according to the last paragraph, the public announcement may not require the qualifications disjunctively, as was the case with the Presidential Decree 194/1988. In other words, it may exclude from the procedure postgraduate or PhD holders. However, in the case of the constitutional independent authorities, the said provision of the Presidential Decree 50/2001 combined with Article 12 par. 2 of the

⁵⁶² See points i, ii, iii of the Presidential Decree 194/1988.

executive law 3051/2002 of the Constitution, a diploma of postgraduate studies is considered as a prerequisite for the selection to a position of the scientific personnel. Under such circumstances, PhD holders may be excluded from the procedure. Still, the category of auxiliary scientific personnel was neither provided for in the executive law 3051/2002 of the Constitution.

The measure of hiring scientific personnel on private law contracts of definite time, which may be renewed, was innovative within the institution of the constitutional independent authorities. Therefore, why did the common legislator proceed to this arrangement for the Greek Ombudsman? Before answering the question, we should point out that it is not uncommon to hire scientific personnel on private law contract of definite time, which may be renewed, in the Greek public administration. The article 3, par. 1 of the executive Presidential Decree 410/1988 of article 103 of the Constitution⁵⁶³ provides for two categories of scientific personnel in relation to their working status: i) scientific personnel on private law contract of indefinite time, and ii) scientific personnel on private law contract of definite time which may be renewed. The appointees shall fill positions of the organisational chart specifically provided for in the relevant provisions of each agency.

However, Bakoyannis (2000), contrary to other legal theorists⁵⁶⁴, supports the view that the option of private law contracts of definite time as working relationship for the scientific personnel in public administration is not permissible by the Constitution. He bases his opinion on three arguments. First, the legal concept of the positions of the organisational chart and the policy of filling these positions by personnel under the working status of private law contracts of definite time are considered as incompatible by the jurisprudence of the Council of State⁵⁶⁵ since “*the concept of the position of the organisational chart is indissolubly linked to a corresponding administrative competence fulfilling a permanent need of the state*”. Second, par. 2, article 103 of the Constitution explicitly defines the cases where personnel are hired for a certain period of time, that is, “*special statutes may provide for exceptions in order to fill unforeseeable and urgent needs with personnel hired for a certain period of time on a private law contract*”. Third, he links the special nature and mission of the special scientific personnel to the executive duties which may never disappear as an object within the function of public administration.

Irrespective of the issue of constitutionality, the measure was fervently supported by the then Greek Ombudsman, Yiorgos Kaminis, in his speech during the works of the legal symposium entitled “*The independent authorities in modern democracy*” that took place in Athens in 2008⁵⁶⁶. In his view, the constitutional independent authorities should have the freedom to select their personnel on their own. He considered that the regulation of par. 2 article 4 of the law 3051/2002 on the constitutional independent authorities which provided that the scientific and the rest of the personnel of the independent constitutional authorities “are permanent or hired on private law contract of indefinite time” was unfortunate. On the contrary, he supported that the previous

⁵⁶³ “The terms of employment and the specific guarantees under which these personnel shall be employed, shall be specified by law”.

⁵⁶⁴ Papayannis D., “Administrative Reform”, vol. 30.

⁵⁶⁵ Decisions 1715/1983, 1761/1983 of the Council of State.

⁵⁶⁶ The speeches of the participants at the Symposium are contained in “*The independent authorities in modern democracy*”, Ed. Nikos Frangakis, Editions Ant. N. Sakkoulas, Athens-Komotini, 2008.

working status of the scientific personnel that was hired on private law contract with a term of five years, which was renewable, was correct. He justified his view on the basis that the permanent tenure of civil servants was established by the Constitution of 1911 as a guarantee of personal independence against majority party power. He argued that permanent tenure protects dissident civil servants from possible persecutions from the government. He explained that there was no possibility of persecuting the personnel of the independent authorities on the basis of party convictions since the supervising authority, that is, the president and the members of the authorities are independent from the political parties, therefore, politically neutral⁵⁶⁷. He concluded that the independence of the authorities and the permanent tenure of their personnel are sizes inversely proportional to each other.

It seems that these views probably draw inspiration from consultative texts on the institution of the Ombudsman⁵⁶⁸. However, empirical evidence on the delegatory relationship has shown that the members of the authorities are broadly involved in public life. On the other hand, permanent tenure is linked to the civil servant's ultimate duty to defend the principle of legality and protect the citizens' constitutional rights, irrespective of the members' involvement in public life. Even if the heads and members of an independent authority are politically neutral, they do not incarnate the law and the Constitution. Invoking relationships of trust between heads and subordinates in the public service might give the wrong message, and might lead to the opposite conclusions and undesirable interpretations. Permanent tenure is not synonymous to arbitrariness since the Civil Servants' Code provides the framework for punishing those violating their oath⁵⁶⁹. It should also be noted that if the institution of the independent authorities is partly inspired by the judicial power, judges are appointed for life. Therefore, the scientific personnel should enjoy the same independence in the discharge of their duties guaranteed by permanent tenure.

The policy of seconding scientific personnel from other agencies of the public sector is only implemented in the case of the Greek Ombudsman. This policy might facilitate capture since the relational distance between regulator and regulatee is low. Capture is more likely to occur when regulators and regulatees (bureaucrats) come from the

⁵⁶⁷ At this point, he clarified that he had expressed similar views at a relevant public event organized by the Employees' Association of the Greek Ombudsman. He had further pointed out that renewing the employees' five-year mandate provided for in law 2477/1997 gave them the opportunity to become permanent employees after having successfully passed two consecutive judgements for the renewal of their mandate. Thus, he considered that the discretion of the independent authority to select the best would have been safeguarded, as well as the employees' justifiable expectation to avoid the status of work insecurity for an indefinite period of time.

⁵⁶⁸ Gottehrer (1998, 2002) an international Ombudsman consultant, states that "*the Ombudsman has the power to delegate responsibilities to staff. Staff often perform work that is sensitive, delicate or confidential. The Ombudsman must have confidence in them. The Ombudsman has the sole power to appoint and remove staff to ensure that staff will have the Ombudsman's full confidence and to ensure that the Ombudsman has sole responsibility for administering the office*".

⁵⁶⁹ According to article 19 par. 1 of the Civil Servants' Code, the civil servant's oath is as follows: "I pledge my allegiance to my country, to obey the Constitution and the laws and to perform my duties honestly and conscientiously". Foreign nationals are required to take the following oath: "I pledge my allegiance to Greece, to obey her Constitutions and laws and to perform my duties honestly and conscientiously". Persons declaring that they have no religion or that their religion does not allow oath taking, are required to offer the following assurance instead of an oath: "I declare, on my honour and consciousness, that I will be loyal to Greece, obey her Constitution and laws and perform my duties honestly and conscientiously".

same professional group (Boyne et al., 2002). Thus, public administration becomes a regulatee partly scrutinized by peers, that is, bureaucrats control bureaucrats. On the other hand, the newly hired scientific personnel coexist with those seconded from other public sector agencies. Therefore, it is difficult to draw conclusions about the mentality of this mixed corps towards the regulatees, how the seconded scientific personnel convey their previous socialization to the new environment, and how one group might affect the other in the discharge of their regulatory duties.

ii. The Greek debt crisis and the exclusive recruitment policy of transfers through secondments

The Greek debt crisis seems to have affected the number of the positions of the special scientific personnel of the Greek Ombudsman, as well as the recruitment policy to be followed in the future. More specifically, article 284, par. 6 of the law 3852/2010 abolished fifteen positions of the special scientific personnel that were vacant by the time of the coming into force of the said law, as well as any other position of the special scientific personnel that shall remain vacant for whatever reason in the future. Paragraph 7 was added to the article 284 of the law 3852/2010 and was incorporated into the law 3862/2010 as article 9 par. 1a. It established 40 positions in the organisational chart for permanent personnel of the category U.E. scientific personnel or on private law contract of indefinite time of the same specialty. The positions shall be exclusively filled by secondments and transfers of permanent or on private law contract of indefinite time employees from public services, first and second-level local government agencies, public law legal entities and private law legal entities. They have to fulfill the qualifications of the special scientist as defined in the civil servants' qualifications index, that is, the Presidential Decree 50/2001 as in force. Civil servants who are university graduates with at least eight years in service, and excellent knowledge of a foreign language may also be selected for the positions. As for the selection procedure, the provisions of the Presidential Decree 291/1998 "Regulations on the recruitment procedure of the Ombudsman's personnel", and article 5 par. 1 of the law 3094/2003 shall apply.

The selection of the candidates for secondment is effected by decision of the Greek Ombudsman in derogation of any general or special provision. The secondment lasts three years, and may be extended only twice for the same period of time with an act issued by the Greek Ombudsman, whereas it is compulsory for the releasing agency. Two months before the completion of the duration of the second extension of the secondment, the employee may request, upon application, his transfer to a vacant chart position; otherwise his secondment shall end with the expiration of the period of this secondment. The transfer is effected upon decision of the Greek Ombudsman and the competent Minister or the organ of administration of the legal person, on the opinion of the service council of the releasing agency, in derogation of the provisions in force, and the parallel abolition of the position of the organisational chart previously possessed by the employee at the releasing agency. The employee shall be transferred after a special assessment. The procedure and the selection criteria are defined in the Regulations of the authority. In case the application for transfer is rejected, the secondment is ipso jure terminated.

The institutional design of the clause could be characterized as improvising in many respects. It abolishes direct appointments, whereas secondments, or secondments

converted to transfers become the exclusive recruitment policy. This strategy undoubtedly saves public expenditure since it relieves the state budget from the burden of new appointments. However, the clause is flawed. It incorporates the positions of the scientific personnel into a category and branch, namely, U.E. scientific personnel, despite the fact that the positions of the scientific personnel are autonomous following the constitution and the civil servants' qualifications index. Thus, part of the positions shall be permanent ones, whereas their number is not defined since it depends on the number of the permanent employees transferred to them. Another part of the positions shall be filled by employees on private law contracts of indefinite time. The number of the positions remains equally undefined for the same reason. We should remind that the positions of the special scientific personnel in the Greek public administration may be filled by personnel hired on private law contracts pursuant to article 103, par. 3 of the Constitution. Consequently, two categories of scientific personnel shall serve in the authority in relation to their working status: i) permanent, and ii) on private law contract of indefinite time employees.

However, beyond any institutional distortions, the clause might impact on the credibility of the recruitment policy itself. First, the procedure of the transfer is in itself puzzling in two respects. Contrary to the practice of the authority in the past in relation to secondments and transfers and the relevant provision on transfers of the Civil Servants' Code of 2007, that is, the transfers are compulsory for the releasing agency, the new clause provides that the concurrent opinion of the service council of the releasing agency is required for the realization of the transfer. Moreover, the clause moves a step further: apart from its approval, the releasing agency must abolish the chart position that shall remain vacant after the transfer. Thus, the institutional design apart from derogating from the previous secondment and transfer policy of the authority, and the relevant rules on transfers in the civil service, might activate clientelistic practices. No agency would easily approve a transfer under such preconditions. This might lead to political interference and bargaining. On the contrary, the policy of transferring personnel through open and competitive procedures without the opinion of the service council of the releasing agency liberates the employee from dependencies of any kind.

Finally, the policy of transferring the scientific personnel from the public sector annihilates the degree of the relational distance between regulator and regulatee, thus jeopardizing the credibility of the institution. On the other hand, the minimum formal qualifications are not strict enough in relation to the required high level of expertise for such positions. An employee with a university degree with at least eight years in service, and excellent knowledge of a foreign language may be seconded to the authority as a special scientist. Thus, the main issue raised is whether previous experience in the public sector may substitute expertise in terms of high level academic qualifications.

B. Analysis of the empirical data

I. The administrative personnel

The Annual Reports of the Greek Ombudsman for the period 1998-2010 were the main source of information in relation to the administrative personnel of the authority. They contain detailed lists with the names, studies, as well as the employees' agencies

of provenance in case they were seconded from other agencies of the public sector. However, we should point out that the annual reports for the years 2008 and 2009 do not provide lists with the personnel, whereas the annual report for the year 2010 simply comprises lists with the names of the administrative personnel as distributed within the service units. This loss is irrelevant since the number of the personnel of the authority had already been stabilized. Indeed, the information on the seconded personnel is extremely valuable since secondments to the public sector are not published in the Government Gazette. Therefore, contrary to the case of the Supreme Council for the Selection of Personnel, we have a comprehensive view of the administrative personnel of the authority. Finally, the Government Gazette additionally served as a source of information in relation to the transferred personnel, and thus filled the informational gaps for the years 2008 and 2009.

Secondments are classified in three categories, and comprise 49 employees in total. The first category refers to cases of ten secondments that were active by 31.12.2010⁵⁷⁰, that is, until the end of the period under research. The average length of secondments is high (7.4 years), and ranges from 4 years to 12 years. Such a high score contradicts with the concept of secondment since it violates the temporary character of the secondment. As for their level of education, four employees were university graduates; one employee was a technological education graduate, whereas five employees were secondary education graduates. The specialty of the graduates of secondary education is not specified in the annual reports.

The second category refers to cases of sixteen secondments which were revoked⁵⁷¹. The average length of the revoked secondments is normal (3.0 years), and ranges from 1 year to 8 years. However, 7 of 16 secondments were revoked after one year. We should also remind that the period of secondment to the authority, irrespective of its duration, is considered as a period of service in a position of a head of department pursuant to par. 1, article 8 of the law 2880/2001. Thus, the measure enables them to get easier promoted to their agency of provenance since having served in a position of head of department is one of the criteria for promotion in the public service. As for their level of education, seven employees were university graduates; two employees were technological education graduates; five employees were secondary education graduates, and two were compulsory education graduates. Their specialty is not always specified in the annual reports.

The seconded employees of the categories and branches C.E. Ushers and S.E. Drivers remained longer compared to the other categories of personnel, and they all came from the Ministry of the Interior. Indeed, the secondments of the 4 of 7 university graduates were revoked after one year. The case of the seconded employee SAP39, a teacher of French in secondary education appointed to the 2nd Highschool of Amphissa, is of interest. All the newly hired teachers of primary and secondary education are appointed in the province. They are obliged to serve there for a few years in order to gather the necessary points that will permit their transfer to schools of Athens or those of other big cities of the country. Therefore, many of them seek to obtain secondments to various public agencies, mainly in Athens, in order to obtain these points while serving as seconded employees to another service. The secondment of SAP39 to the authority lasted four years.

⁵⁷⁰ See Appendix 10, table 1.

⁵⁷¹ See Appendix 10, table 2.

The third category refers to cases of eighteen secondments converted to transfers pursuant to the relevant legislative regulations⁵⁷². The overwhelming majority of the personnel of this category had served on secondment during the period 2000-2003. As for their level of education, six employees were university graduates; two employees were technological education graduates; nine employees were secondary education graduates, and one was compulsory education graduate. It is obvious in all the categories of secondments that the authority followed the unjustifiable and unsuitable policy of seconding mainly secondary education graduates. As for the conversion of the secondments, 15 of 18 employees were transferred in 2003 pursuant to article 5 par. 8 of the law 3051/2002. TAP 18 and TAP37, were transferred in 2007 and 2008 respectively.

The Director of the Secretariat, TAP12, was also transferred in 2003. She had previously served as Director of the Secretariat for the period 2000-2003 on secondment from the Ministry of the Interior, Public Administration and Decentralisation. She was member of the seconded scientific personnel of the authority (1998-1999). Thus, she had already obtained the necessary experience to apply for the position of Director of the Secretariat. As for her institutional involvement in public life, she has been member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration, which was published in 1990. Finally, she gave courses at the National Centre of Public Administration in 2011.

The overwhelming majority of the transfer decisions, that is, 15 of 18, were unilateral administrative acts. We have already expressed our reservations over the issue in the section regarding the institutional design of the recruitments. According to the empirical data, 11 employees were transferred from public law legal entities, and their transfer decisions were signed and issued by the heads of the management boards, instead of the competent Ministers. The transfer decisions of the employees coming from the Ministries of Press (TAP20), and Defence (TAP23) and the Headquarters of the Greek Police (TAP18 and TAP32) were unilaterally signed and issued by the Ministers supervising the releasing agencies, instead of a joint Ministerial Decision co-signed by the Minister of the Interior, representing the Greek Ombudsman. In the case of three employees coming from the Ministry of the Interior (TAP12) and the Prefecture of Piraeus (TAP11, TAP14), the minister of the releasing agencies and the minister representing the authority coincided, that is, the Minister of the Interior. The transfer of the employee TAP1 constitutes a controversial case. More specifically, it occurred simultaneously with a reclassification procedure to another branch within the same category. The employee before the transfer pertained to the category and branch S.E. Typists, whereas the branch was silently converted to that of S.E. Administration-Accounting.

New transfers took place in 2009 and 2010 following the new transfer procedure provided for in article 71 of the Civil Servants' Code of 2007. As for their level of education, one employee was a university graduate; two employees were technological education graduates, whereas two employees were compulsory

⁵⁷² See Appendix 10, table 3.

education graduates. All the transfer decisions were appropriately signed by the competent Ministers, that is, they constitute bilateral administrative acts. The transfer of the employee TAP47 coming from the Anonymous Company for the Exploitation and Management of Greek Highways (T.E.O.) constitutes a controversial case. The company was a public law legal entity converted to an anonymous public company in 2001, whereas it was finally privatized in 2007. The employee after the conversion of the public law legal entity to an anonymous public company, that is, a private law legal entity kept the status of permanent civil servant. However, according to the argumentation analyzed in the unit for the Supreme Council for the Selection of Personnel⁵⁷³, the legality of the transfer could be considered as dubious. Furthermore, the employee filled a personal permanent position despite the fact that there were vacant positions in the organisational chart for this category and branch. Finally, the majority of the total number of the transferred personnel that is, 75% (17 of 23) are experienced since they possessed grades A and B by the time the transfer took place. As for their level of education, the number of secondary education graduates is unjustifiably high⁵⁷⁴. Finally, the majority of the releasing agencies pertain to the categories of hospitals, and social security-pension funds.

Cases of in-service mobility of the transferred personnel have been identified⁵⁷⁵. TAP24 was reclassified to a new branch within the same category, whereas TAP21 and TAP33 were reclassified to a branch in a superior category. As for secondments to other agencies of the public sector, TAP1 has been seconded to the Inspector General of Public Administration most probably since 2010. The secondment of TAP13 to the political bureau of the Minister of Finance since 2009 under the PASOK government also implies political involvement. The seconded employee SAP38, had served on secondment to the political bureau of the Deputy Minister of Health and Welfare for the period 2000-2002, that is, before being selected as seconded employee to the authority in 2003.

In 2007 the Greek Ombudsman proceeded to direct appointments. The public announcement was published in daily newspapers. A postgraduate degree was a prerequisite for the appointment. Therefore, nine appointees of the Categories of University Graduates and Graduates of Technological Institutions were postgraduate degree holders⁵⁷⁶. Two of the newly hired members of the administrative personnel had been working in public law legal entities before their appointment to the authority: AP8 had served in the Commercial and Industrial Chamber of Athens, whereas AP5 had served in the Civil Servants' Sickness Insurance Fund.

Finally, Table 10 shows the level of education of the administrative personnel of the authority, that is, the transferred and newly hired personnel. Postgraduate education graduates represent 31% of the administrative personnel, whereas university graduates and graduates of Technological Institutes represent 32% of the administrative personnel.

⁵⁷³ See Appendix 8, table 2.

⁵⁷⁴ See Appendix 10, tables 4, 5 and 6 containing information regarding the total number of the 23 transferred employees, that is, those transferred through secondments, and those directly transferred: i) the employees' experience through the grades system, ii) the employees' specialization and level of education, and iii) the employees' releasing agencies by categories.

⁵⁷⁵ See Appendix 10, tables 7 and 8.

⁵⁷⁶ See Appendix 10, table 9 on the specialization of the directly hired administrative personnel.

Table 10 The level of education of the administrative personnel of the Greek Ombudsman

	<i>Compulsory Education Graduates</i>	<i>Secondary Education Graduates</i>	<i>Technological Institutes Graduates</i>	<i>University Graduates</i>	<i>Postgraduate Education Graduates</i>
% of the administrative personnel by level of education	12% (4 of 33)	24% (8 of 33)	12% (4 of 33)	21% (7 of 33)	31% (10 of 33)

Source: The Annual Reports of the Greek Ombudsman

We have identified 24 persons in total who have served as Secretaries of the Ombudsman and the Deputy Ombudsmen since the establishment of the authority. As for the system of their recruitment, 71% (17 of 24) were directly hired, whereas 21% (5 of 24) were seconded from other agencies of the public sector⁵⁷⁷. However, we do not have information on the way of the recruitment of two Secretaries because of the lack of information in the Annual Reports for the years 2008-2010. As for new appointments after their resignation, the Secretary of the Deputy Ombudsman of the Department of Human Rights (S1), a PhD holder, who was hired in 1998, resigned in 2000. She became member of the teaching staff of the University of Cyprus. The Secretary of the Deputy Ombudsman of the Department of Quality of Life (S3), hired in 1998, was selected as member of the auxiliary scientific staff of the authority in 2003.

Interestingly enough, the working relationship of the Secretary of the Deputy Ombudsman of the Department of Human Rights (S9), hired in 2000, was converted to a private law contract of indefinite time pursuant to the Presidential Decree 164/2004⁵⁷⁸. In our opinion, the conversion was irregular since the working status of the Secretaries is equivalent to that of the revocable employees of article 103, par. 5 of the Constitution. Therefore, those hired for such positions have no right for compensation or other claim or privilege pursuant to article 8, par. 1 of the law 2623/1998.

Table 11 shows the level of education of the Secretaries who have served in the bureaus of the Ombudsman and the Deputy Ombudsmen since the establishment of the authority. The majority of the Secretaries are university graduates, whereas 4 of 24 possess a postgraduate degree.

Table 11 The level of education of the Secretaries of the Ombudsman and the Deputy Ombudsmen

	<i>Secondary Education Degree</i>	<i>University Degree*</i>	<i>Postgraduate Degree</i>	<i>PhD Degree</i>	<i>Unknown</i>
% of the Secretaries by level of education	29% (7 of 24)	37% (9 of 24)	17% (4 of 24)	4% (1 of 24)	2% (3 of 24)

* One Graduate of a Higher Technological Institute is included

Source: The Annual Reports of the Greek Ombudsman and google search engine

⁵⁷⁷ See Appendix 10, table 10.

⁵⁷⁸ The Presidential Decree provided for the conversion of private law contracts of definite time of the employees serving in the public sector to private law contracts of indefinite time.

Finally, the gender distribution of the administrative personnel is as follows: 37% are men, and 63% are women.

II. The scientific personnel

The Annual Reports of the Greek Ombudsman for the period 1998-2010 were/are the exclusive source of information regarding the scientific personnel of the authority. Contrary to the policy of publishing a summary of the appointment act of the permanent civil servants in the government gazette following the relevant provision of the Civil Servants' Code, article 11 of the Presidential Decree 410/1988 on the Code of personnel on private law contract simply provides for a hiring act issued upon decision of the competent organ for the hiring without publication in the government gazette. Therefore, the Annual Reports give detailed information on the scientific personnel's names, studies, and category by department. The informational gap for the period 2008-2010 is irrelevant since few new scientific personnel were seconded or hired during that period. We have identified the professional and/or educational background of the majority of those newly hired or seconded through the government gazette or the google search engine.

The public announcements for the selection of scientific personnel have never been published in the government gazette contrary to the practice of the other constitutional independent authorities. They have always been published in daily newspapers pursuant to the Regulations of the Greek Ombudsman as defined in the Presidential Decree 291/1998. The public announcements do not provide for a grading system for the award of points for each one of the selection criteria or the possibility of raising a written objection in case of the rejection of a candidacy.

The Annual Report for the year 1998⁵⁷⁹, that is, the First Annual report of the authority, is the only Annual Report that gives some information on the first selection procedure for the hiring of the special and auxiliary scientific personnel that took place in 1998. More specifically, it states that the total number of the applicants for the positions of the special and auxiliary scientific personnel was 1,486, whereas 280 had passed the preliminary stage and attended the public interview. The members of the selection committee finally selected 44 candidates for the positions of the special scientific personnel (25 seconded and 19 newly hired), and 25 candidates for the positions of the auxiliary scientific personnel. The Annual Report also gives the names of the five-member selection committee. Apart from the Greek Ombudsman, who participated as President, one of the two Deputy Ombudsmen, a former Director General at the Directorate General of Administrative Organisation and Procedures of the Ministry of the Interior, Public Administration and Decentralisation, was a trade unionist. The judge coming from the Supreme Courts was a Councillor of State, and became Vice-President of the Council of State upon unanimous approval of the Cabinet⁵⁸⁰ under the New Democracy Government in 2009. The fifth member of the selection committee, the university professor, became Member of Parliament (2007-

⁵⁷⁹ The Annual Report of the Greek Ombudsman for the year 1998, available at: <http://new.synigoros.gr/?i=stp.el.annreports.31533>, date of access: 4.9.2011.

⁵⁸⁰ Source: Article entitled "Changes in the leadership of Justice" in the electronic newspaper "Epikairoτητα" dated: July 1, 2009, available at: http://www.epikoinonia-arg.gr/index.php?option=com_content&view=article&id=8811&catid=13:2010-06-28-15-26-20&Itemid=57, date of access: 2.9.2011.

2009) with the party of PASOK, and was appointed as Special Secretary at the Ministry of National Education and Religious Affairs in 2009⁵⁸¹ under the PASOK government. She is also member of the National Council of PASOK⁵⁸².

The transition of the scientific and auxiliary scientific personnel on private law contracts of definite time to the new working status of private law contracts of indefinite time provided for in the executive law 3051/2002 of the Constitution and the updated law 3094/2003 on the Greek Ombudsman was realized through an open procedure. According to the Annual Report for the year 2003, 23 members of the scientific personnel and 27 members of the auxiliary scientific personnel already serving in the authority were re-hired. Furthermore, 10⁵⁸³ of 27 members of the auxiliary scientific personnel had submitted applications for positions of the special scientific personnel, and were re-hired to these positions. The remainder of the positions was filled by newly hired personnel. Therefore, 33 successful candidates filled positions of the special scientific personnel, and 32 successful candidates filled positions of the auxiliary scientific personnel.

The selection procedure that took place in 2003 indirectly inaugurated the promotion of the already serving auxiliary scientific personnel to positions of the special scientific personnel through an open procedure⁵⁸⁴. Article 22 of the law 3448/2006 abolished the subcategory of the auxiliary scientific personnel by promoting its members to positions of the special scientific personnel through an internal assessment. These promotions were published in the Government Gazette. More specifically, 14 members of the auxiliary scientific personnel were promoted in 2006⁵⁸⁵, 26 were promoted in 2007⁵⁸⁶, and 2 were promoted in 2008⁵⁸⁷. However, 11 members of the auxiliary scientific personnel⁵⁸⁸ had already resigned from the authority before having the chance to get promoted.

We have identified 42 employees of the public sector seconded to the authority as members of the scientific personnel since the beginning of the operation of the authority in 1998. Secondments are classified in two categories. The first category comprises secondments⁵⁸⁹ that remained active until 31.12.2010, that is, until the end of the period under research. Twenty-three employees were serving on secondment to the authority by 31.12.2010. The average length of secondments is high (8.1 years), and ranges from 3 years to 12 years. The secondments of six members of the scientific personnel have been renewed four times, whereas the secondments of five members of the scientific personnel have been renewed three times. Such a high score

⁵⁸¹ Government Gazette, vol. YODD, no 492, 19.11.2009. She submitted her resignation in 2010 (Government Gazette, vol. YODD, no 371, 16.11.2010).

⁵⁸² Source: The Official Website of PASOK, available at:

<http://www.pasok.gr/portal/resource/contentObject/id/f852db07-36c9-45f6-87f2-6cf1ed8bd315>, date of access: 2.9.2011.

⁵⁸³ The following members of the auxiliary scientific personnel succeeded in being re-hired as special scientists: 17, 18, 20, 21, 62, 63, 67, 110, 157, and 159.

⁵⁸⁴ The same seems to have happened in 2001, 2004 and 2005 with the members of the auxiliary scientific personnel 66, 19, and 108.

⁵⁸⁵ Government Gazette, vol. B, 1394, 14.9.2006

⁵⁸⁶ Government Gazette, vol. B, 391, 16.3.2007

⁵⁸⁷ Government Gazette, vol. B, 368, 5.3.2008

⁵⁸⁸ These members of the auxiliary scientific personnel are: SP60, SP65, SP74, SP100, SP103, SP115, SP156, SP163, SP178, SP26, and SP153.

⁵⁸⁹ See Appendix 10, table 11.

contradicts with the concept of secondment since it violates the temporary character of the secondment. As for the agencies of provenance, there is a wide representativeness of Ministries which in turn supervise a large number of public law legal entities. All these public bodies fall under the jurisdiction of the regulatory activity of the Greek Ombudsman. This policy of seconding employees coming from all the areas of activity of the authority, that is, health, social security, environment, urban planning, landscape, public works, human rights, taxes, customs, education, quality of services, transport, probably diminishes the relational distance of the regulator from the regulatees.

The second category of secondments⁵⁹⁰ comprises secondments which were revoked or terminated for whatever reason. The average length of the revoked or terminated secondments is 4.4 years, and ranges from 1 year to 9 years. The majority of the seconded employees at least served for a full three-year period, whereas many secondments were renewed at least once. Furthermore, the empirical data enable us to proceed to the following observations: i) 3 secondments were annulled in 1998, the first year of operation of the authority, ii) 3 secondments were terminated, and the seconded members of the scientific personnel did not return to their agency of provenance. More specifically, SSP118, an employee from the Ministry of the Interior, was seconded to the Office of the Inspector General of Public Administration as Head of the Directorate of the Secretariat. He was still serving there on secondment by 31.12.2010. SPP122, an employee from the Ministry of the Interior, was transferred to the Secretariat of the Greek Ombudsman as Director. SPP127, an employee from the Ministry of the Environment, Planning and Public Works, was seconded to the Political Bureau of the Minister of Justice from 27.9.2007 until 31.3.2008. The seconded SSP75 and SSP79, applied for a direct appointment to the authority. They were both hired in 2003, and submitted their resignations from their previous positions in the public sector, that is, Constructions EKTENEPOL, a subsidiary of the National Bank of Greece, and the Ministry of the Interior.

Table 12 shows the level of education of the seconded scientific personnel in total. The majority has a postgraduate degree (48%, 20 of 42), 12% (5 of 42) are PhD holders, and 38% (16 of 42) are university graduates. Finally, 19 of 42 are graduates of the National School of Public Administration.

Table 12 The level of education of the seconded scientific personnel*

	<i>University Degree*</i>	<i>Postgraduate Degree</i>	<i>PhD Degree</i>	<i>Unknown</i>
% of the seconded scientific personnel by level of education	38% (16 of 42)	48% (20 of 42)	12% (5 of 42)	2% (1 of 42)

* Only the employee 155 was seconded as member of the auxiliary scientific personnel

Source: The Annual Reports of the Greek Ombudsman and google search engine

We have identified 148 newly hired members of the special and auxiliary scientific personnel since the beginning of the operation of the authority in 1998. However, the phenomenon of resignations is not rare since 37 of 148 directly hired members of the special and auxiliary scientific personnel resigned from the authority. According to

⁵⁹⁰ See Appendix 10, table 12.

the empirical data, 15 of the directly hired followed an academic career. They were appointed to tenured positions at Greek and foreign higher education institutions⁵⁹¹.

The remainder of those resigned preferred other positions in the public sector⁵⁹². These new appointments in the public sector could be classified as follows: 3 judges of the Supreme Courts; 6 lawyers appointed at the legal services of various public agencies and an independent authority; 1 researcher; 1 member of the scientific personnel of an independent authority; 6 employees appointed to various public services, four of them at the Ministry of Finance which is constantly preferred for the higher remuneration. The career paths of four resigned members of the special and auxiliary scientific personnel could not be identified. One member, SP21, was not appointed to a position of the public sector. She was hired as Director of the Sector for the Protection of Refugees at the United Nations Refugee Agency in Athens. The column with the indication “year of appointment”⁵⁹³ to the new position might explain why the directly hired personnel decided to resign. Indeed, twelve new appointments took place between the years 1999 and 2004. This exodus might be explained as a sign of work insecurity felt by this category of personnel since they were employed on private law contract of definite time. It should be reminded that the law that converted the working status of the personnel was promulgated in 2003. The other resignations that took place after the year 2004 might be linked to the personal professional aspirations and ambitions (researcher, judge, political career) as was the case with those who followed an academic career.

The cases of seconded members of the scientific personnel to political positions are of great interest⁵⁹⁴. However, in our opinion, the policy of seconding members of the scientific personnel as political appointees constitutes a phenomenon that could be characterized as incompatible with the neutral and independent character of the institution irrespective of the high level of expertise of the seconded personnel. On the other hand, it reveals the political involvement of the seconded personnel. They are mainly appointed to the political bureaus of ministers, deputy ministers, secretary generals, the General Secretariat of the Government and the Prime Minister as advisors, special collaborators, and Director. The most characteristic cases are presented hereafter. SP10, a former Deputy Ombudsman, was appointed as Secretary General for Migration Policy at the Ministry of the Interior, Decentralization and Electronic Governance in 2010. Two Prime Ministers, Konstantinos Karamanlis (New Democracy), and Georgios Papandreou (PASOK) have consecutively seconded members of the scientific personnel of the authority to the General Secretariat of the Government (SP8: 2004-2009), and the political bureau of the Prime Minister (SP2: 2009-). The case of the member of the scientific personnel SP66 is of great interest in relation to the duration of the secondment that lasted six years. These secondments actually followed the political career of a politician from the party of New Democracy, Nikitas Kaklamanis. SP66 was seconded to his political bureau while he was serving as Minister of Health and Social Solidarity (2004-2007). She was seconded to the Municipality of Athens, as legal advisor, after his election as Mayor of Athens (2007-2010). Apart from her position as legal advisor of the municipality of Athens, she had also institutional and financial involvement since she was appointed

⁵⁹¹ See Appendix 10, table 13.

⁵⁹² See Appendix 10, table 14.

⁵⁹³ See Appendix 10, table 14.

⁵⁹⁴ See Appendix 10, table 15.

as member of the Management Board of the Society for the Protection of Minors of Athens, representing the Municipality of Athens and member of the management board of the Athens Municipal Radio Enterprise, Athens 9.84.

Two other members of the scientific personnel had also financial and institutional involvement while they were seconded as political appointees. SP11, on secondment to the political bureau of the Minister of Finance as Director, was also appointed as member of the State Lottery Administration Committee, and as non executive member of the management board of the Organisation of Football Prognostics S.A. SP78, on secondment as Special Advisor to the Bureau of the Minister of Environment, Energy and Climatic Change, was also appointed as member of the Management Board of the Hellenic Mapping and Cadastral Organisation (OKXE). He had also institutional involvement as member of the Working Group for the submission of a recommendation upon the necessary amendments regarding the legal framework on quarries. SP86, on secondment to the political bureau of the Deputy Minister of Foreign Affairs has political affiliation since she is member of the Sector for the Environment and Planning of the party of PASOK⁵⁹⁵.

As for secondments of the scientific personnel to other public services⁵⁹⁶, SP124, SP159 and SP120 were seconded to the bureau of the Inspector General of Public Administration following the relevant annual reports of the Inspector General of Public Administration.

Table 13 shows the level of education of the total number of the special and auxiliary scientific personnel seconded and directly hired since its establishment. According to the empirical data, over $\frac{3}{4}$ of them hold postgraduate and PhD degrees. It should also be noted that nine members of this category of personnel completed their PhDs while in service, whereas twelve completed their postgraduate studies while in service.

Table 13 The level of education of the special and auxiliary scientific personnel

	<i>University Degree</i>	<i>Postgraduate Degree</i>	<i>PhD holders</i>	<i>Unknown</i>
% of the scientific personnel by level of education	18% (33 of 190)	52% (97 of 190)	28% (55 of 190)	2% (5 of 190)

Source: The Annual Reports of the Greek Ombudsman (1998-2010)

As for the specialisation of the scientific personnel, a report of the Greek Ombudsman states⁵⁹⁷: “*Unlike the Ombudsman Bureaus of the other nations staffed almost exclusively by lawyers, the professional personnel of the Greek Ombudsman covers a wide range of specialisation in order to be able to provide a comprehensive investigation on the complaints received through a multidisciplinary approach*”. The

⁵⁹⁵ Date of publication of the composition of the Sector: 8.12.2008 Source: The Official Website of PASOK, available at: <http://www.pasok.gr/portal/resource/contentObject/id/7d45db1b-7f0c-426d-a97b-a72139975caf>, date of access: 8.6.2010.

⁵⁹⁶ See Appendix 10, table 16.

⁵⁹⁷ Adam Ch. and Papastilianos Ch., The Greek Ombudsman and the other independent authorities, available at: http://video.minpress.gr/wwwminpress/aboutgreece/aboutgreece_ombudsman.pdf, date of access: 4.9.2011

breakdown of the personnel by specialisation serving by 31.12.2010⁵⁹⁸ is as follows: 77 lawyers (55%), 8 political scientists (6%), 9 engineers (6%), 8 psychologists (6%), 6 sociologists (4%), 6 economists (4%), 5 archaeologists (4%), 4 geologists (3%), 2 communication specialists (1%), 2 social scientists (1%), 2 philologists (1%), 2 oceanographers (1%), 1 chemist (1%), 1 medical doctor (1%), 1 statistician (1%), 1 anthropologist, 5 unknown (4%).

Finally, the gender distribution of the scientific personnel serving in the authority by 31.12.2010 is as follows: 99 are women (71%), and 41 are men (29%).

Some members of the scientific personnel have involvement in public life. The case of SP84 is characteristic. He is politically involved. He resigned from the authority in 2002. He was member of the Council of Students of the Political Youth "Rigas Feraios" (1985-1987), the Party of the Greek Left. He served as Collaborator at the Ministry of Transport and Communications (June 1997-December 1998). He became Secretary of the association of the scientific personnel of the Greek Ombudsman. He was parliamentary candidate of PASOK in the constituency of Magnessia in the National Elections of 2000 (2nd Runner-up). However, a fine was imposed on him since he was among the parliamentary candidates who had not published their electoral income and expenses in a newspaper of their electoral constituency⁵⁹⁹. He was elected Prefect of Magnessia in the Prefectural and Municipal Elections of 2006, whereas

he ran for Regional Commissioner of the region of Thessaly in the Municipal and Regional Elections of 2010. He was elected member of the regional council. In 2002 he became member of the sector on gender equality of the Central Committee of PASOK. As for his participation in civil society, he has been President of the Institute of Strategic and Development Studies - Andreas Papandreou (ISTAME) of Magnessia (2004). He is also founder of the NGO "Network of Voluntary Organisations of Magnessia" (2000), and member of the Events Committees of "Citizen Everyday", a non-profit corporation for the promotion of participatory democracy founded in 2005 by the Volunteers' Network of PASOK. As for his scientific involvement, he has been

Associate Professor (Human Rights Unit) at the School of Officers of the Greek Police pursuant to the no 6501/5/83b/20.8.1998 decision of the Chief of the Greek Police (academic year: 1998-1999), adjunct professor at the University of Thessaly for the Academic Year 2000-2001

SP14, was hired in 2003 and resigned in 2009 after his appointment as Assistant Professor at the Department of Law at the University of Cyprus. Before his appointment in the authority, he had served as adviser of the Minister of Justice, Evangelos Yiannopoulos (1998-2000), and as special collaborator at the political bureau of the Minister of Justice, Michalis Stathopoulos (2000-2001) under the PASOK governments. As for his institutional and financial involvement he was

⁵⁹⁸ The breakdown of the total number of the scientific personnel by specialisation since the establishment of the authority (190 members of the scientific personnel) is as follows: 101 lawyers (54%), 20 political scientists (11%), 11 engineers (6%), 8 psychologists (4%), 8 sociologists (4%), 7 economists (4%), 5 archaeologists (3%), 5 geologists (3%), 4 communication specialists (2%), 2 social scientists (1%), 2 philologists (1%), 2 oceanographers (1%), 2 chemists (1%), 1 medical doctor (1%), 1 statistician (1%), 1 anthropologist (1%), 1 informatician (1%), 1 translator-interpreter (1%), 1 teacher of secondary education (1%), 5 unknown (3%).

⁵⁹⁹ See no 1148 of the relevant list for the imposition of a fine in G.G. vol. B, no 411, 11.4.2001.

appointed as Vice-President of the Management Board of the National Centre for Vocational Guidance in 1996. He has been member of legislative drafting committees and various working groups.

SP129, was appointed as special collaborator at the Ministry of Culture (2000-2004) after his resignation in 2000. He was candidate councillor for the management board of the Athens Bar Association in the elections of 2010. He is member of Amnesty International and member of the political party “Union of Independent Citizens”.

SP187, was appointed as special collaborator at the political bureau of the Minister of the Interior, Public Administration and Decentralisation in 2004. SP98, was appointed as alternate representative of the party of PASOK in the Committee constituted for the Control of Electoral Violations in the Prefectures of the Region of Thessaly (Prefecture of Larissa) in 2007. As for trade-unionism, SP11 was President of the Management Board of the Association of the employees of the Greek Ombudsman (2001-2003) and elected member at the Service Council of the Authority (2001-2005). SP79 has also served as Vice-President of the Association the employees of the Greek Ombudsman and member of its management board. SP26 was candidate councillor for the management board of the Athens Bar Association in 2002, before being hired to the authority.

As for their institutional involvement, the members of the scientific personnel participated in various legislative drafting committees (SP8, SP11(2), SP14, SP43) and working groups, (SP8(3), SP11, SP14(4), SP17, SP19, SP28, SP56, SP84(2), SP78, SP128).

Many of the members of the scientific personnel have been adjunct professors in higher education institutions while in service (SP38, SP42, SP80, SP84, SP95, SP96, SP103, see Appendix 4). The member of the scientific personnel SP54, a PhD holder in public law, presents an intense academic activity as adjunct professor in various higher education institutions even while serving in the authority. He was hired in 2005. Table 14 shows the intensity of his academic activity as adjunct professor by chronological order based on his Curriculum Vitae uploaded on the Official Website of the Department of Political Science of the Demokritos University of Thrace, and other sources. During the academic year 2008-2009, he was simultaneously adjunct professor at five higher education institutions while he was serving in the authority.

Table 14 Academic activity of the member SP54 of the specialized scientific personnel

Academic Years	Department/Higher Education Institutions and other public schools
2003-2009	Police Officers' School and the Further Education and Training School of the Hellenic Police Academy Academic Years 2003-2009
2006-2008	Adjunct Professor at the Department of Business Administration, University of Patras
2007-2010	Department of Economic and Regional Development, University of Central Greece
2009-2010	Department of Political Science, Demokriteion University of Thrace Academic Year: 2009-2010
2008-2009	Department of Social Work and Department of Commerce and Marketing, Technological Educational Institute of Athens
2009-2010	Member of the hourly paid teaching staff for the training of the special uniformed personnel of the Municipal Police 2009

Finally, they were members of the following NGOs: the Hellenic League for Human Rights (SP9, SP28, SP41, SP131, SP143); the Research Centre for Minority Groups (KEMO) (SP10, SP11, SP13, SP41, SP131, SP135, SP179); the Greek Centre for the Protection of the Environment-Ecosystem (SP105); the Special Synodical Committee for Migrants, Refugees, and Repatriated of the Church of Greece (SP138); Greek Young Women's Christian Association (SP138).

d. The Hellenic Authority for Communication, Security and Privacy

A. The legal framework on the recruitment policies

I. The administrative personnel

Contrary to the legal framework of the other three constitutional independent authorities that always provided for the transfer of personnel from the public sector on first implementation of their founding laws as one way of recruiting personnel, the recruitment system of the Hellenic Authority for Communication, Security and Privacy is exclusively based on direct hirings. Indeed, this legislative arrangement was inevitably imposed by the executive law 3051/2002⁶⁰⁰ of the Constitution regarding the recruitment system of the constitutional independent authorities. The founding law 3115/2003⁶⁰¹ regulates all issues regarding the personnel of the authority.

The administrative personnel are regular civil servants. The authority proceeds to the recruitment of the personnel either through selection or examination following a public announcement. In case an interview is provided for, it is public. The public announcement defines the required specialization and experience of the personnel, the selection criteria and the procedure for raising objections as well as any other detail. A selection committee is constituted for the selection of the administrative personnel. A member from the Supreme Council for the Selection of Personnel, appointed by the President of the said authority, participates in the selection committee as President. The members of the committee are remunerated. The authority, based on a justified decision, selects the candidates who possess the broadest experience and knowledge required for the position to be filled. The lists of the selected candidates are sent for ratification to the Supreme Council for the Selection of Personnel. The Supreme Council for the Selection of Personnel has the obligation to ratify the selection lists within the exclusive deadline of twenty days from the day of their receipt. In case the above mentioned term expires with no action taken by the authority, the Hellenic Authority for Communication, Security and Privacy proceeds to the recruitment of

⁶⁰⁰ Article 4, par. 1.

⁶⁰¹ According to article 8, par. 1 the law 3115/2003, the 25 positions of the organisational chart for the administrative personnel were distributed by categories and branches as follows: U.E. Administration-Finance (4 positions), U.E. Engineers (2 positions), U.E. Informatics (2 positions), T.E. Administration-Accounting (3 positions), T.E. Technological Applications (positions 5), Secondary Education (6 positions), C.E. Auxiliary Personnel (3 positions). Interestingly enough, the branches of the secondary education positions are not specified. Article 19 of the law 3472/2006 replaced par. 1 of article 8 of the law 3115/2003, and diminished the number of the positions of the organisational chart regarding the administrative personnel. Thus, the 19 positions left were distributed as follows: U.E. Administration-Finance (3 positions), T.E. Administration-Accounting (3 positions), T.E. Technological Applications (positions 5), Secondary Education (7 positions), C.E. Auxiliary Personnel (1 position).

those selected. Employees from other agencies of the public sector may be seconded to the authority for two years, with a possibility of renewal, in case they have experience relevant to the subject area of the authority. The force of the measure would expire four years after the publication of the law in the Government Gazette.

II. The scientific personnel and the personnel of the legal service

According to article 8 of the law 3115/2003 regulating the issues of the personnel of the authority, the scientific personnel are hired on private law contracts of indefinite time. Thus, the working relationship is consistent with the dicta of article 103, par. 3 of the Constitution. The general principles of the selection procedure are the same as those previously analysed for the administrative personnel. However, it is differentiated in two respects: i) the interview is compulsory, and ii) one university professor, at least, participates in the selection committee. The number of the positions provided for the scientific personnel was low compared to that of the administrative personnel⁶⁰². Thus, the law 3115/2003 increased the number of the positions of the scientific personnel⁶⁰³. Lawyers would be suspended from the exercise of their profession while in service.

Contrary to the practice prescribed in the founding laws of the other constitutional independent authorities, that is, transferring or seconding the heads of units from other public services, which was innovative in itself and derogated from the rules of the Civil Servants' Code, the Presidential Decree 40/2005 provides for direct hirings to the three Directorates of the authority⁶⁰⁴, as well as to the autonomous Department of International Collaborations and Public Relations⁶⁰⁵. This practice of direct appointments of the heads of units is also unique in the public service.

Article 14 of the Presidential Decree 40/2005 containing the organisational chart of the authority sets forth the selection procedure and the required qualifications for the heads of units. Those selected as heads of the said units are hired as members of the scientific personnel of the authority on three-year private law contracts. Their mandate may be renewed for equal terms on the decision of the authority. However,

⁶⁰² According to par. 1 of article 8 of the law 3115/2003, the 12 positions of the organisational chart regarding the scientific personnel were distributed as follows: 10 positions for Electrical and Computer Engineers, or Electrical Engineers, or telecommunications engineers, informatics engineers, or informaticians, or physicians, and 2 positions for law school graduates.

⁶⁰³ Indeed, article 19 of the law 3472/2006, which replaced par. 1 of article 8 of the law 3115/2003, increased the number of the positions of the scientific personnel. Thus, these positions of the organisational chart were distributed as follows: 14 positions for Electrical and Computer Engineers, or Electrical Engineers, or telecommunications engineers, informatics engineers, or informaticians, or physicians; 2 positions for graduates of International or European studies or Political or Financial studies, or Organisation and Business Administration; 2 positions for law school graduates.

⁶⁰⁴ The three Directorates of the authority are: i) the Directorate for the Infrastructures Assurance, Infrastructures, Services Secrecy, Internet Applications, ii) the Directorate for the Assurance of Infrastructure and Secrecy of Telecommunication Services, and iii) the Directorate for the Assurance of the Secrecy of Mailing Services.

⁶⁰⁵ The heads of the other Departments of the authority are selected pursuant to the relevant provisions of the Civil Servants' Code according to par. 6 of article 14 of the Presidential Decree 40/2005. However, if there are no employees with the required qualifications, the positions of these departments shall be filled by seconding employees from public services or public law legal entities of the same branch possessing grade A on the decision of the authority. The seconded employees shall exercise the duties of head of department until it shall be possible to select the heads of departments from among the regular employees of the authority.

the scientific personnel of the authority may also participate in the selection procedure. The required qualifications for the Heads of the Directorates are as follows: at least ten years experience in a relevant subject area, teaching in a university included. Three years from the above mentioned experience should have been spent in the exercise of administrative duties. The candidates for the position of the head of the autonomous department are required to have six years experience in a relevant area, whereas two years from the above mentioned experience should have been spent in the exercise of administrative duties. In case the candidates do not have the required experience, the positions may be filled by candidates with less experience, which may not be less than six years for the heads of the directorates and three years for the head of the autonomous department. Other qualifications that shall be considered are as follows: postgraduate degrees relevant to the subject area of the authority, the knowledge of foreign languages and the use of computers.

The formal and substantial qualifications are assessed by a three-member committee constituted by decision of the authority. This committee, after the assessment of the formal and substantial qualifications of the candidates, and the interview with each one of them, submits to the authority in plenum a table with the three strongest candidates for each position, if there are, whereas the authority in plenum selects the one to be hired.

The personnel of the legal service

Article 8 of the law 3115/2003 provides for two positions of lawyers with a salary mandate, and one position of a Legal Advisor who must be a Supreme Court lawyer, and possess at least a postgraduate degree in a subject area relevant to the aims of the authority. Further selection criteria for these positions are not specified in the law.

B. Analysis of the empirical data

I. The administrative personnel

Only one public announcement for the selection of administrative personnel was published in the government gazette⁶⁰⁶. The 4 vacant positions of the organisational chart to be filled were distributed as follows: 2 U.E. Administration-Finance, and T.E. Administration-Accounting. The criteria were explicitly defined. However, the public announcement did not contain a grading system for these criteria. As for the qualifications, apart from the main university degree⁶⁰⁷, special qualifications were defined for the positions of the category and branch U.E. Administration-Finance⁶⁰⁸.

⁶⁰⁶ Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 423, 22.10.2004.

⁶⁰⁷ The one position of the category and branch U.E. Administration-Finance required a university degree related to administration, whereas the other required a university degree with financial orientation.

⁶⁰⁸ The special qualifications were defined as follows: i) very good knowledge of English, or French or German, ii) at least three years experience on issues related to the organisation, management and exploitation of human resources and business administration in the public sector or private enterprises (for the specialty of Administration), and three years experience in a computerised accounts office in the public sector or private enterprises (for the specialty of Finance) iii) the knowledge of word processing, excel, and data bases.

Additional qualifications were also taken into consideration⁶⁰⁹. The procedure also provided for an interview.

Table 15 shows the level of education of the administrative personnel⁶¹⁰. The graduates of Technological Educational Institutes represent 47% (8 of 17) of the administrative personnel, whereas only two employees are university graduates. The graduates of secondary education represent almost a third of the administrative personnel, which, in our opinion, is unjustifiably high. Furthermore, the branches of the secondary education appointees are not specified, with the exception of the category and branch S.E. Drivers. As we have already stated, the branches of the positions of secondary education are not defined in the founding law or the organisational chart. Apart from the S.E. Driver hired in 2005, another Driver had already been seconded from the Thermal Bus Company SA the same year according to the annual report for the year 2005⁶¹¹. The secondment was renewed in 2006, and ended in 2007.

Table 15 The level of education of the administrative personnel

	<i>University Education</i>	<i>Technological Education</i>	<i>Secondary Education</i>	<i>Compulsory Education</i>
% of the administrative personnel by level of education	12% (2 of 17)	47% (8 of 17)	35% (6 of 17)	6% (1 of 17)

Source: The Government Gazette

According to the appointment decisions published in the government gazette, we have identified 23 employees starting from the beginning of the operation of the authority in 2004 until December 31, 2010. However, the total number of the positions of the organisational chart to be filled was 19 positions. Throughout this period, three selected candidates denied their appointment, whereas three employees resigned from the authority.

Cases of resignations and denial of appointments are not rare⁶¹². Indeed, all the resigned employees as well as the successful candidates who refused to assume duties were all reappointed to positions in the public sector. Four of them pertained to the category of Secondary Education (AP10, AP21, AP13, AP22), whereas the other two pertained to the category of technological education (AP4), and compulsory education (AP14) respectively. The case of AP10 is of interest. He was appointed to the authority as a secondary education graduate. However, after his resignation he filled the position of a teacher of physical training in secondary education, that is, he was a university graduate. On many occasions, university graduates submit their candidacies to fill positions of secondary education in the public sector since the rate of the unemployment of university graduates is high. AP21 and AP22 preferred positions to

⁶⁰⁹ The additional qualifications were defined as follows: i) graduation from the School of Public Administration, ii) the mandate as head of personnel units in a public or private agency, iii) the grade of the main degree, iv) a postgraduate degree, v) the excellent knowledge of English, or French or German, vi) the knowledge of other languages.

⁶¹⁰ See also Appendix 11, table 1 on the specialization of the administrative personnel. These tables contain information only for the administrative personnel serving in the authority by 31.12.2010.

⁶¹¹ Annual Report for the year 2005, available at: <http://www.adae.gr/portal/index.php?id=44>, date of access: 4.9.2011.

⁶¹² See Appendix 11, tables 2, and 3.

the Ministry of Finance since the employees of this Ministry and its supervising agencies are better remunerated.

Finally, the gender distribution of the administrative personnel is as follows: 38% are men, and 62% are women.

II. The scientific personnel and the personnel of the legal service

Only one public announcement for the selection of scientific personnel was published in the government gazette⁶¹³. All the previous public announcements had been published in daily newspapers. The 3 vacant positions of the organisational chart to be filled were distributed to subject areas as follows: Security of Telecommunications Infrastructures, Systems, and Services (2 positions), and Security of Information Systems, and Implementations (1 position). The founding law and the organisational chart do not define the selection criteria for the scientific personnel of the authority. Therefore, the public announcement of 2008 becomes a source of information on the issue. The special qualifications were defined as follows:

- i) a university degree with specialization in the subject area as specified in the announcement,
- ii) scientific expertise in the subject area of the position or other relevant sectors specifically defined in the announcement, which is proved by
 - a PhD degree in the subject area of the announced position, or
 - a postgraduate degree in the subject area of the announced position or other relevant scientific sectors specifically defined in the announcement, and at least a relevant two years experience,
 - or at least a relevant four years experience in the subject area of the announced position and at least one publication or a scientific announcement in a subject related to the content of the specialization of the position in a reputable international review or congress.
- iii) Excellent or very good knowledge of the English language. The knowledge of other languages will be taken into consideration in the procedure of the assessment of the candidates,
- iv) one year of additional experience for all the candidates in the subject area of the announced position, or other relevant fields of the subject area

The selection procedure also provided for an interview. However, the public announcement did not contain a grading system for the rating of each one of the selection criteria.

Resignations and denial of appointments of the scientific personnel of the authority are not rare⁶¹⁴. We have identified 21 members of the scientific personnel starting from the beginning of the operation of the authority in 2004 until December 31, 2010. The total number of the positions of the organisational chart to be filled was 18 positions. Throughout this period, four selected candidates denied their appointment, whereas four of the appointed members of the scientific personnel resigned from the authority. The career paths of SP13, SP2, and SP20 are unknown. SP1, SP3 and SP10 followed an academic career; SP11 became Head of Administration at the European

⁶¹³ Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 694, 31.12.2008.

⁶¹⁴ See Appendix 11, tables 4 and 5.

Network and Information Security Agency; SP5 was promoted to the position of Director. However, he submitted his resignation from the authority in 2008, and was hired at Ontelecoms, a Greek Telecommunications Company, as Director of Access Backbone Networks. As for the scientific personnel's level of education⁶¹⁵, a significant number have PhD degrees: 54%, 7 of 13 of those serving in the authority by 31.12.2010, and 71%, 5 of 8 of those who resigned or denied the appointment.

As for their involvement in public life, SP4 and SP12 participated as members of the special legislative drafting committee representing the Hellenic Authority for Communication, Security and Privacy, on the study and elaboration for the transposition of the Directive 2006/24/EC of the European Parliament and the Council of March 15, 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

As for the heads of the three Directorates, two of them resigned during their mandate (SP5, HSP3). As we have already mentioned SP5, who was member of the scientific personnel promoted to the position to the position of Director, was hired at a Telecommunications Company of the private sector. HSP3 is a free-lance lawyer. He only served for five months. HSP5, who replaced SP5 after his resignation, hold a postgraduate degree. We could not find any information on the professional or educational background of two of the heads of the Directorates (HSP2, HSP6), and the head of the autonomous department of International Collaborations and Public Relations (HSP4).

Finally, the gender distribution of the scientific personnel is as follows: 68% are men, and 32% are women.

Two public announcements for the selection of lawyers with a salary mandate were published in the government gazette⁶¹⁶. The previous public announcements for the legal advisor and one lawyer with a salary mandate⁶¹⁷ had been published in daily newspapers. The founding law and the organisational chart do not define the selection criteria for the lawyers with a salary mandate. Therefore, the public announcements of 2008 become a source of information on the issue. The special qualifications were defined as follows: i) a law degree, ii) to be at least appellate lawyers, iii) at least five years experience, preferably in public law, iv) excellent knowledge of at least one of the languages of the European Union, v) knowledge of the use of computers. Other additional criteria taken into consideration were defined as follows: i) employment in a subject area relevant to the competences of the authority or relevant publications, ii) a postgraduate degree (preferably in public law), iii) the degree of the main diploma, iii) the knowledge of other foreign languages, and iv) the personality of the candidate which would be assessed through the interview. However, the public announcements did not contain a grading system for the rating of each one of the selection criteria.

As for the profile of the members of the legal service, the legal advisor, a PhD holder, was appointed to various governmental positions - special collaborator of the Minister

⁶¹⁵ See Appendix 11, tables 6 and 7.

⁶¹⁶ Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 74, 26.02.2008, and no 271/5.06.2008.

⁶¹⁷ The lawyer with a salary mandate was appointed in 2005 and submitted his resignation in 2007.

of National Education and Religious Affairs in 1999, adviser at the Ministry of State in 2004- under different governments. In 1997, he was appointed as member of the Committee of Legislative Initiative constituted by the then Deputy Minister of Foreign Affairs, G. Papandreou. He was appointed lawyer of the Organising Committee of the Athens Olympics 2004. He was member of the special legislative drafting committee constituted at the Ministry of Justice, Transparency and Human Rights for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC.

The organisational chart provides for two positions of lawyers with a salary mandate. One of them resigned in 2007. The vacant position was filled in 2008, whereas the appointment of the second lawyer took place in 2009. Regarding their level of education, two of them are postgraduate degree holders. We do not have any information on the educational level of the third lawyer. However, the one who resigned participated six times in various legislative drafting committees in 2010 mainly related to the transposition of directives regarding data privacy and security of communications, the amendment of legislation regarding the Hellenic Authority for Communication, Security and Privacy, and the Code of Laws on drugs.

4. Conclusion

The diachronic presentation of the recruitment policies as well as the identification of the selected personnel permitted us to draw useful information on the internal hierarchical relationship, that is, the members of the authorities as bureaucratic superiors-principals, and their personnel as bureaucratic subordinates-agents. We may discern common recruitment policies among the four independent constitutional authorities. Based on this criterion the authorities will be divided into two groups in order to systematize our conclusions. The first group consists of the Supreme Council for the Selection of Personnel and the Greek Ombudsman. The second group comprises the Hellenic Data Protection Authority and the Hellenic Authority for Communication, Security and Privacy.

The first group adopted mixed recruitment policies, that is, transfers, secondments, and direct hiring. On the contrary, the second group adopted almost exclusively the policy of direct hiring. The mission of the authorities of the first group has great impact on Greek society, and this might partly explain the preference of the legislator to transfers and secondments which, in turn, diminish the relational distance between regulators and regulatees, that is, the political decision-makers. The mission of the authorities of the second group does not directly affect the citizens' everyday life and is not widely promoted, whereas the number of the personnel is small and the required expertise is scarcely found in other agencies of the public sector.

The institutional design of the recruitment strategy applied in the case of the Supreme Council for the Selection of personnel represents a characteristic case of legislative manipulation that violated the Constitution, administrative law, and jurisprudence. Regarding the administrative personnel, the common legislator adopted the policy of transfers and long lasting secondments from other agencies of the public sector. The necessity of recruiting experienced personnel from the public sector, and public expenditure savings served as an alibi for the arrangement. Legislative regulations and empirical evidence make both arguments crumble. First, thousands of temporary employees were appointed as long-term contract employees or permanent civil servants, thus putting an enormous burden on the state budget. Second, the empirical data show that the majority of the transferred administrative personnel were neither experienced nor qualified, and mainly came from private law legal entities of the broader public sector that did not have competences relevant to the mission of the authority.

Furthermore, the selection criteria for the transfers were so vague that the discretion of the selection committees was enormous. The vagueness of the selection criteria combined with the flawed clause on transfers, which illegally converted the working status of the transferred personnel on private law contract of indefinite time, seem to have served clientelistic purposes. Therefore, the policy of transfers and long lasting secondments rather created a corps linked to the political decision-makers, thus diminishing the relational distance from the regulatees. The authority proceeded to the direct hiring of administrative personnel ten years after its establishment. The majority of the directly hired personnel of the category of university education have postgraduate degrees. However, the less qualified transferred employees may be promoted as heads of units without fearing the concurrence of the directly hired. The better qualified but directly hired personnel have the right to apply for promotion

twelve years after their appointment. However, once more, the number of the directly hired secondary education graduates remains unjustifiably high. According to the empirical data 33% (80 of 242) of the total number of the administrative personnel were secondary education graduates, 54% (131 of 242) were university graduates, and 9% (11 of 242) were graduates of Technological Educational Institutes. The number of secondary education graduates was further increased by the massive secondments of employees of the same category.

The Supreme Council for the Selection of Personnel is the only independent authority whose founding law does not provide for specialized scientific personnel. This seems as an unorthodox aspect of the institutional design since the nature and mission of the independent authorities require high expertise. The first members of the scientific personnel were appointed fourteen years after the beginning of the operation of the authority. A postgraduate degree was a prerequisite for the selection. However, the public announcement put emphasis on previous experience to the subject area of the announced positions acquired in the public or private sectors, whereas PhD holders without prior experience were excluded from the procedure. Therefore, expertise through high level academic qualifications was substituted for experience because of the relaxation of the civil servants' qualifications index regarding the category of scientific personnel combined with the relevant clause of the executive law 3051/2002 of the constitution. No grading system was provided for in the public announcement for the classification of the candidates. The majority of those finally selected previously worked in the public sector, whereas some of them had significant involvement in public life.

The recruitment policy of the Greek Ombudsman regarding the administrative personnel was equally based on transfers and secondments from the public sector, thus keeping a low relational distance between regulator and regulatee. Contrary to the policy of the Supreme Council for the Selection of Personnel, an open procedure was provided for the secondments. Special legislative regulation permitted the seconded employees to apply for transfer to the authority. The transferred personnel were quite experienced, whereas the number of secondary education graduates was unjustifiably high. The authority proceeded to the direct hiring of administrative personnel ten years after its establishment, as was the case with the Supreme Council for the Selection of Personnel. The directly hired personnel were all postgraduate degree holders, whereas positions for secondary education graduates were not announced.

The Greek Ombudsman is the only constitutional independent authority that provided for seconded scientific personnel, apart from direct hiring. However, those who could be seconded from the other agencies of the public sector did not pertain to the special category of special scientists. Instead, university graduates with at least eight years experience in the public sector could be seconded to fill relevant vacant positions. On the other hand, the creation of the category of the auxiliary scientific personnel was rather arbitrary, and served the purpose of mitigating the rigidity of the civil servants' qualifications index in relation to the high standards provided for the positions of the scientific personnel. According to the empirical data $\frac{3}{4}$ of the total number of the special and auxiliary scientific personnel seconded or directly hired since the establishment of the authority hold postgraduate (52%), and PhD (28%) degrees. However, the remainder is simply university graduates.

The large number of resignations of the members of the special scientific and auxiliary scientific personnel, and their reappointment to higher educational institutions in Greece and abroad, and other positions in the public sector could be interpreted as follows: work insecurity felt by personnel during the first years of operation because of the working status of private law contracts of definite time, and personal professional aspirations and ambitions. Moreover, it seems that the authority failed to inspire its personnel, and create a committed corps of bureaucrats as is the case with judges. Some members of the scientific personnel have involvement in public life, whereas a certain number have been politically involved. On the other hand, the phenomenon of seconding members of the scientific personnel to political positions, apart from revealing political affiliation, reduces the credibility of the institution since this policy seems incompatible with its neutral and independent character.

The recruitment of the administrative personnel of the Hellenic Data Protection authority was almost exclusively based on direct hiring. On the contrary, the heads of two departments were transferred from other agencies of the public sector. The graduates of secondary education represent almost a third of the administrative personnel, a policy which is unjustifiable for agencies based on expertise. As for the scientific personnel, their level of education is high since they all possess postgraduate degrees, whereas 44% have PhD degrees. However, resignations are a usual phenomenon that seems to hinder the normal operation of the authority. According to the annual reports, those resigned seem to have been unsatisfied from their remuneration, and career prospects in the authority.

The administrative personnel of the Hellenic Authority for Communication, Security and Privacy were directly hired. The graduates of Technological Education Institutes represent 47% of the administrative personnel, whereas only 12% are university graduates. The percentage of secondary education graduates is unacceptably high (35%). As for the scientific personnel, the phenomenon of resignations is common. The authority does not seem to satisfy their aspirations, and serves as an intermediate stage in order to continue their career elsewhere. Members of the administrative personnel have equally resigned.

The public announcements for the selection of the personnel of the four constitutional independent authorities are not always published in the government gazette with the exception of the Supreme Council for the Selection of Personnel. Most importantly, on many occasions, they do not apply a grading system for each one of the selection criteria in order to classify the candidates. Article 1 of the law 3812/2009 abolished the autonomy of the constitutional independent authorities in directly hiring their personnel, and included them in the group of public sector bodies that fall under the ambit of the general recruitment system in the public sector. Could this arrangement be interpreted as a signal of distrust of the society towards the credibility and transparency of the selection mechanisms adopted by the constitutional independent authorities that the executive came to satisfy? It should be pointed out that the new measure coincided with the outbreak of the Greek debt crisis that actually blocked new appointments in the public sector. A few months later, article 284 par. 6 of the law 3852/2010 provided that the forty newly established positions of the scientific personnel of the Greek Ombudsman would only be filled through transfers, an internal

selection mechanism that additionally diminishes the relational distance between regulator and regulatee.

Chapter 4

The External at Arm's-length Relationship: The Constitutional Independent Authorities and Public Administration

Signs of Regulatory Capture and Inertia?

1. Introduction

The qualitative assessment of the external at arm's-length relationship between regulators (principals) and public administration (agents-regulatees), that is, the identification of cases of regulatory failure, constitutes the third principal-agent dyad. The term regulatory failure refers to the management of cases by the regulator in a way that safeguards the regulatee's interests, thus failing to serve the public interest. This, in turn, could finally be the result of regulatory capture, thus implying a straightforward allegation of collusion between regulator and regulatee, the latter in the double role of public administration-polical decision-makers. Different tools and approaches were applied for the identification of cases of regulatory failure of the four constitutional independent authorities under research. Thus, positive theoretical approaches on the control of the constitutionality of laws by public administration, court decisions, publicity through the media, international research findings, annual and special reports served as a basis for the identification of cases of regulatory failure. The unit is divided into four parts, one for each independent constitutional authority, whereas each part comprises further analysis, mostly through case study presentations, and a final assessment.

In the case of the Supreme Council for the Selection of Personnel, the incidents of regulatory failure are identified through the application of a simulative control of the constitutionality of laws relating to the regulatory field of the authority. The view expressed by a group of Greek legal theorists that public administration, under certain preconditions, is legitimized to proceed to the control of the constitutionality of laws gave inspiration for this hypothetical experiment. Thus, the implementation of the positive theoretical approach permitting the control of the constitutionality of laws by the independent authorities served as a means to test the neutrality of the regulator's action. The main idea relies on the identification of specific provisions in the legislation on recruitments in the public sector that the authority could have challenged in the first place by ruling them unconstitutional for violating the constitutional principles of equality and meritocracy. Two facets of these infringements are tested regarding their constitutionality. The first facet is related to the broadness of the jurisdiction of the authority over recruitments in the public sector, that is, clauses providing for partial and pseudo-jurisdiction, as well as unjustified exceptions from the general recruitment system, whereas full jurisdiction is considered as the ideal case. The second facet corresponds to clauses concerning flawed terms of the recruitment procedure itself, irrespective of the type of jurisdiction over recruitments.

In the case of the Greek Ombudsman, regulatory failure is tested indirectly through the assessment of the exhaustion of its statutory powers of a deterrent character. In

order to achieve this, it was deemed necessary to briefly present the nature of the Ombudsman's regulatory agency, as well as the principles and values of the institution, as described in the introductory texts of the annual reports. On the other hand, the acknowledgment, on the part of the regulator, of the existence of intrinsic causes of maladministration diachronically rooted in the country combined with the tactics of conflict-avoiding regulation makes the detection of the effectiveness of the institution difficult. Therefore, the relationship developed between regulator and regulatee could only be approached through examining the exhaustion of the Ombudsman's statutory powers of a deterrent character since the institution is also considered as a proactive anti-corruption mechanism.

Regulatory literature rejects the idea of assessing agency independence through sanctions. However, high levels of corruption in public administration combined with the low use of the statutory powers of a deterrent character might, in effect, conceal the unwillingness of the regulator to proceed to the use of the sanctions toolkit. In the annual reports the Ombudsman acknowledges the existence of corruption in Greek public administration as well as his proactive role on the issue. Furthermore, the Ombudsman, unlike representatives of other institutions⁶¹⁸, does not dispute the reliability of the measurement of corruption by International Transparency through the Corruption Perception Index issued each year⁶¹⁹. Taking these into consideration, we attempted to identify the relationship between the levels of corruption in Greece for the period 1999-2010, and the degree of the exhaustion of the statutory powers of a deterrent character, namely referrals to the prosecutor, by the Ombudsman. The CPI scores served as the main source of information for the measurement of corruption in Greece on a year-to-year basis. The levels of corruption in the country indicated by the CPI scores constitute external evidence that may be tested against analogous levels of initiatives of a deterrent character undertaken by the Greek Ombudsman. Any mismatch in the analogy between the levels of corruption and the levels of initiatives of a deterrent character, that is, high levels of corruption combined with significantly low levels of anti-corruption initiatives, rather signal regulatory failure. Thus, as a first step, we proceeded to a comparative presentation of the CPI scores between Greece and Turkey for the period 1999-2010. Turkey was selected for two reasons. First, unlike Greece, it is not considered a consolidated democracy. Second,

⁶¹⁸ According to the conclusions of the Research Project entitled "Views on Corruption in Greece: Between "Low Morals" and a "Culture of Compromise" (Lambropoulou, Papamanolis, Ageli, Bakali, 2008) financed by the European Commission, the Target Groups (Politics, Public Administration, Justice, Police, Media, NGOs, Economy) that participated in the research supported the view that *"the European and international research findings with the CPIs reflect, according to them trends, which are not particularly reliable. However, the measurement is not denied or rejected, but it is emphasized that more research is needed with the use of other instruments"*. On the other hand, according to the same research *"no groups apart from some interviewees in economy and NGOs accepted that corruption in Greece is higher or even much higher than in other developed European countries"*.

⁶¹⁹ In the introductory text of the Annual Report for the year 2001 the Ombudsman states: *"It is indicative that the creation of conditions capable of ensuring transparency in public administration has, over the past few years, become a priority on the agendas of supranational organisations such as the European Union and the Organisation for Economic Cooperation and Development, of which Greece is a member. It further constitutes the exclusive preoccupation of the private international organisation, known as "International Transparency". Indeed, this organisation annually issues a "corruption perception index which has become increasingly influential and particularly significant in more mature democracies"*. Source: The official website of the Greek Ombudsman, Annual Report for the year 2001, available at: http://www.synigoros.gr/resources/docs/564_a.pdf, date of access: 26.10.2011.

the institution of the Ombudsman had not yet been established in Turkey during the period under research. This comparison could be indicative of whether the presence of the institution in Greece impacts on the levels of corruption. Second, the levels of corruption in Greece, as reflected in the CPI scores, were, in turn, compared with the number of reports the Ombudsman referred to the public prosecutor relating to potential acts of corruption in the period from 1998 to 2010.

The Greek Ombudsman's acceptance of the system of exemptions from the general recruitment system, as expressed in the relevant Special Report for the year 2006, is also presented as a case study. The Ombudsman's proposals seem to tolerate at the institutional level the perpetuation of clientilistic practices in public administration, which, in turn, constitute a facet of corruption. Finally, the lack of a legislative initiative and intervention on a consultative basis regarding a regulatory reform on recasting, simplification and consolidation of legislation, as well as the lack of systematic publicity of the Ombudsman's findings when the regulatees refuse to comply with his recommendations, as means to fight corruption, are briefly presented.

The second part on the Greek Ombudsman attempts to present two characteristic case studies of regulatory failure indicative of the way the Ombudsman fulfills his institutional role. Both cases refer to his unwillingness to activate his statutory power regarding the violation of the duty of assistance. According to the annual reports, the Ombudsman has never activated this statutory power since its adoption in 2004. The duty of assistance refers to a public servant's negation to cooperate with the Ombudsman with a view to impede or prevent the conduct of an investigation. Criminal proceedings may be brought about only after the independent authority refers a relevant report to the competent prosecutor. The Ombudsman's failure to enforce the provision is described in a case study regarding the disclosure of the opinion no 3273 dated 19.4.2005 of the legal service of the Manpower Employment Organisation. The second case study describes and assesses the mediation of the Ombudsman as derived from the decision of the European Court of Human Rights *Tsourlakis v. Greece*

In the case of the Hellenic Data Protection Authority, the analysis and assessment of the decision 27/2007 was selected as a characteristic case study revealing signs of probable collusion between regulator and regulatee. It seeks to highlight how the unwillingness of a public sector regulatee, that is, universities, to upload on the internet the university professors' selection minutes, was finally justified by the regulator on the basis of the disproportionate dissemination of personal data, thus completely disregarding the dimension of public interest in the crucial area of higher education. More specifically, the authority had to judge upon the permissibility of publishing the university professors' selection minutes in the Internet, apart from their publication in a freely accessed special volume explicitly provided for in the law 2083/1992. The section comprises the following: i) the criticisms and views expressed on the decision in a newspaper article and an internet forum, and ii) comments and the final assessment of the decision.

In the case of the Hellenic Authority for Communication, Security and Privacy, the research simply failed to detect incidents of regulatory failure as the regulatory action remains incomplete in two respects. First, the authority *ex ante* fails to audit its main public sector regulatee, that is, the National Intelligence Service. Second, a flawed

clause deprives the authority of having recourse to legal remedies in the exercise of the control of the legality of the rulings and ordinances relating to the terms and conditions of the procedure for the waiver of the confidentiality of communications. The annual reports, the minutes of parliament, and publicity in the media serve as a source of information to describe the inexistent relationship between regulator and regulatee. As for the flawed clause, the annual reports and the minutes of parliament permit us present the views of the authority supporting the introduction of the measure of the legal remedies as well as that of the political decision-makers on the issue.

2. The Supreme Council for the Selection of Personnel

a. Simulating a control of the constitutionality of laws relating to the regulatory field of the Supreme Council for the Selection of Personnel

The control of the constitutionality of laws is explicitly and exclusively assigned to the Courts as provided for in article 93 par. 4 combined with article 100 par. 1, subpara. e and par. 4 subparagraph 2 of the Constitution⁶²⁰. However, in recent years legal theorists have fervently been discussing over the issue of the legitimacy of the executive branch of government, that is, public administration, to proceed to the control of the constitutionality of laws⁶²¹ (Chrysogonos, 1989 and 2010; Vogiatzoglou, 2005; Mathioudakis, 2006; Tsiliotis, 2010). Those supporting the positive approach on the issue argue that all the independent authorities, whose function is provided for in legislation irrespective of their consolidation in the Constitution, may proceed to the control of the constitutionality of laws.

Based on Tachos's (2005) proposal⁶²², we will implement a simulative control of the constitutionality of laws relating to the regulatory field of the Supreme Council for the Selection of Personnel. More specifically, this process will enable us to identify specific provisions that the members of the authority could have challenged and probably overturned through their intervention, that is, the control of constitutionality, on the basis of the violation of the constitutional principles of equality and meritocracy. Furthermore, the process will facilitate the identification of the relationship developed between the regulator, that is, the principal-authority, and the regulatee, that is, the agent-public administration.

The violation of the constitutional principles of equality and meritocracy⁶²³ within the field of regulation of recruitments in the public sector, as prescribed in the relevant legislation, may have two facets. The first facet is related to the partial and pseudo-jurisdiction of the authority over recruitments, as well as the unjustified broadening of the circle of exceptions from the general recruitment system. In these cases the legislator usurps the "full control" of recruitments from the regulator, thus violating the constitutional principles of equality and meritocracy. The term "full jurisdiction" means that all the stages of the recruitment procedure, either through competitive

⁶²⁰ Regarding the control of the constitutionality of laws in Greece, Stathopoulos (2009) states: "*The monitoring of the constitutionality of laws (control of their compliance with the Constitution) is carried out by all the courts, but only as to the specific case which is before them. The courts do not deprive the law which they judge to be unconstitutional of its force; they simply do not apply it in the case which they are hearing. There is only one court which can annul a law (with general applicability and beyond the case being heard): the Special Supreme Court (Article 100 of the Constitution). However, the Special Supreme Court has this power only in a few instances, more specifically (Article 100, par. 1, subparagraph (e) and par. 4, subparagraph 2 of the Constitution), when contradictory decisions as to the constitutionality of a law have been issued by the supreme courts of the three jurisdictions which exist in Greece (the Council of State, that is, the supreme administrative court, the Court of Cassation of Areios Pagos, and the Court of Audit*".

⁶²¹ See Appendix 1 for an analysis on the relevant theoretical debate.

⁶²² See Appendix 1.

⁶²³ The principle of meritocracy in relation to the access of citizens to posts of the public administration is safeguarded by article 103, par. 7 of the revised Constitution of 2001. However, the Council of State deduced this principle, before its introduction in the Constitution, from articles 5 par. 1 and 4 par. 1 of the Constitution by linking it to "the rule-of-law State and the under equal terms guarantee of the principle of the free development of the individual's personality" (Papadopolou, 2005).

entry examination or by selection according to predefined and objective criteria, are exclusively handled by the regulator without the intervention of the regulatee. The regulator's full jurisdiction over recruitments in the public sector, with the exception of special categories of personnel (e.g. judges, university professors, etc), formulates a zero relationship with the regulatee, which is the ideal case in the regulation of recruitments in the public sector. Thus, the regulator has contact with the regulatee only once, that is, in the initial stage when the regulatee submits a request to the regulator in order to fill vacant positions of the organisational chart of an agency. On the contrary, provisions permitting partial or pseudo-jurisdiction over recruitments might lead to a complex relationship with the regulatee that might probably cause regulatory failure.

The second facet corresponds to provisions relating to specific terms of the recruitment procedure that violate the constitutional principles of equality and meritocracy, albeit under the regime of full jurisdiction. In these cases, even if there is no visible relationship between regulator and regulatee, the political decision-makers formulate the specific legal framework that will be applied by the regulator. Thus, such unconstitutional provisions, in case they are not ruled as such by the authority, bypass the regulator, and meet the interests of the political decision-makers coinciding with the regulatee-public administration.

b. The first facet: Cases relating to the type of jurisdiction over recruitments

i. The concept of full jurisdiction over recruitments in the public sector

The full jurisdiction over recruitments in the public sector, either through competitive entry examination or by selection according to predefined and objective criteria, constitutes the ideal type of regulation since it is consistent with the constitutional principles of equality and meritocracy. The authority is the only actor during all the stages of the competitive selection procedures, that is, the regulatee has no intervention. In the case of contests in order of priority, namely selection according to predefined and objective criteria, the procedure, exclusively reserved for the authority, comprises the following stages: the formulation of the public announcement, its publication in the government gazette, the processing of the results, and the competence to answer to any objections filed by the candidates.

ii. The concept of partial jurisdiction over recruitments in the public sector

The type of partial jurisdiction applies in the case of contests in order of priority, and was initially provided for the temporary personnel⁶²⁴. Partial jurisdiction consists of the following stages: i) the public sector body, that is, the regulatee, formulates the text of the public announcement and sends it to the authority for control in order to obtain the final approval for publication in the government gazette, ii) the candidates submit all the required documents to the public sector body, iii) the public sector body drafts the selection lists, that is, it issues the provisional results, and sends them to the authority for the ex-post control of the formal and substantial legality of the lists, iv) unsuccessful candidates may file their objections to the authority, v) the public sector body proceeds to the publication of the appointments to the government gazette after

⁶²⁴ Article 21 of the law 2190/1994.

the approval of the final selection lists by the authority. In any case, the decisions of the authority may be appealed to the administrative courts. The stage of the ex post control, which seems to be the most crucial, deprives the authority from the ex ante full overview of the processing of the results. All the required documents submitted by the candidates are gathered, and assessed by the regulatee. The regulator simply controls the selection lists, which might be misleading, and thus capture might be facilitated. Obvious mistakes contained in the selection lists or the filing of objections from unsuccessful candidates give the regulator the opportunity to proceed to substantial control, that is, ask for the submission of all the necessary documents in order to verify the correctness of the final results. The type of partial jurisdiction over the recruitment of temporary personnel seems to have been practically unavoidable⁶²⁵. On the contrary, applying partial jurisdiction over the recruitment of permanent employees for certain public sector bodies in parallel with full jurisdiction for others seems to violate the constitutional principles of equality and meritocracy. In other words, the regulator implements two different types of recruitment control for the same category of personnel.

The law 2527/1997 introduced the implementation of partial jurisdiction⁶²⁶ over the recruitment of the permanent and on private law contract of indefinite time administrative personnel of first and second-level local government enterprises, as well as the administrative personnel of all types of public enterprises⁶²⁷ and the subsidiaries of public enterprises and banks. It should be noted that these public bodies had been initially exempted from the general recruitment system. However, the law 2527/1997 also initiated the gradual detachment of full jurisdiction over the recruitment of permanent employees, those on private law contracts of indefinite time included, from the authority. The case of first and second-level local government authorities is of interest. A series of legislative amendments of the founding law 2190/1994 on recruitments gradually introduced the type of partial jurisdiction over the selection of the permanent personnel of this category of agencies⁶²⁸. Partial

⁶²⁵ Partial jurisdiction seems to have been practically unavoidable for the recruitment of temporary personnel for the following reasons: i) the time-limited duration of the employment, that is, mainly eight-month contracts, presupposes speed in the selection procedure since it would have been impossible for the regulator in a month's time to proceed to the processing of the huge number of recruitment requests coming from various public sector bodies, the gathering of the candidates' documents, and the issue of the results, and ii) even if partial jurisdiction might raise reservations in relation to its transparency, the category of temporary personnel is not crucial for the functioning of public administration.

⁶²⁶ Article 1, par. 3 of the law 2527/1997.

⁶²⁷ The gradual privatization of public enterprises and organizations in the 2000s inevitably excluded them from the general recruitment system in case the State participated with less than 50% in their funding. Article 13 par. 1 of the law 3429/2005, regulated the system of the recruitment of the personnel of those enterprises and organisations that still remained under the control of the State. Joint ministerial decisions further specified the recruitment system for each enterprise. The Supreme Council for the Selection of Personnel kept partial jurisdiction over the recruitments, albeit in the form of the control of legality.

⁶²⁸ The law 2539/1997 defined that partial jurisdiction would apply for the personnel of the contributory services (mainly cleansing personnel) of first-level local government authorities. The same system was extended to the rest of the personnel of the said agencies with the exception of the categories UE Administration, UE Financial, TE Administration-Accounting, and SE Administration Secretaries (law 3013/2002). These exceptions were finally abolished by the law 3274/2004, and thus all the permanent personnel of first-level local government authorities were selected under the system of partial jurisdiction. The law 3345/2005 introduced the same system for the filling of permanent positions in second-level local government authorities.

jurisdiction⁶²⁹ was also extended to certain categories of the permanent personnel⁶³⁰ of hospitals, health centres, and the National Centre for Emergency Care. However, a new regulation in 2004⁶³¹ restricted partial jurisdiction to the category of nursery personnel.

Since the establishment of the system of partial jurisdiction over the recruitment of the permanent personnel of the aforementioned public sector bodies, the authority has exposed in its annual reports a series of problems arising from its application. The regulatees showed reluctance to comply with the rules set forth by the relevant legislation, and the recommendations of the regulator. As a result, there were long delays in the processing of the stages of the procedure⁶³², due to the problematic relationship between regulator-regulatee, a relationship which could have been avoided in the first place. The regulatee became part of the procedure, and had to be persuaded. On the other hand, it remains unknown as to whether the regulator finally achieves to avoid capture by the regulatee. The authority failed to rule the system of partial jurisdiction unconstitutional. In the annual reports for the years 2006, 2007, and 2008 the authority simply restricted itself to propose that it should take under its full jurisdiction the recruitment of the personnel of these public sector bodies.

iii. The concept of pseudo-jurisdiction over recruitments in the public sector

The type of pseudo-jurisdiction over recruitments in the public sector refers to a procedure that almost approaches the category of exceptions from the general recruitment system established by the law 2190/1994. Special legislative regulations provide for the selection procedure. In such cases, the regulator simply offers an external guarantee to the procedure, that is, a hint of legitimacy. This guarantee varies depending on the occasion, and the following alternatives may occur: i) the authority nominates one of its members as President or member to the selection committee, constituted in all other respects by decision of the regulatee, ii) the authority simply controls the formal legality of the procedure, that is, it cannot proceed to the full and substantial control of the documents submitted by the candidates in order to audit the real possession of the qualifications and qualities that define their classification rank in the selection lists, iii) the regulatee submits the minutes of the assessment procedure to the authority on a purely informative basis. A combination of these alternatives may also occur. However, the participation of a Councillor of the authority to these selection committees, and the competence of the authority to control ex post the procedure leads to a conflict of interest situation. Five characteristic cases are briefly presented hereafter.

The case of the non administrative and workers technical personnel of certain public sector bodies: The technical, in its broad sense, and the worker technical personnel of

⁶²⁹ Article 24, par. 2 of the law 2716/1999, as amended by article 19 par. 8 of the law 3106/2003.

⁶³⁰ Doctors were exempted. It included the following specialties: nursery personnel, medical laboratory technologists, manufacturers, radiology personnel, operators-printers, operators of medical devices, operators of medical equipment, ambulance crews, social workers, physiotherapists, early childhood nannies, and occupational therapists.

⁶³¹ Article 27 of the law 3293/2004.

⁶³² Article 10, par. 8 of the law 3051/2002 provides for the disciplinary and penal (article 259 of the Penal Code) liability of the elected organs of local government authorities violating their obligation to draft, hung on notice boards, and submit in due time to the Supreme Council for the Selection of Personnel the relevant selection lists.

the full-fledged and joint enterprises of the first and second-level local government authorities - where the agency possesses, directly or indirectly, at least 50% of their share capital – as well as the same category of personnel of all forms of public enterprises and banks with their subsidiaries were exempted from the general recruitment system⁶³³. The authority simply exercised the control of legality in relation to the selection procedure. Papadopoulou (2005) states that “*these exceptions cover a large part of the labour market, and were considered as a means offering deviation from the general recruitment system of the law 2190/1994*”.

The case of work contracts with natural persons: The type of control the authority exercises over the legality of the conclusion of work contracts with natural persons⁶³⁴ in public sector agencies is particular. More specifically, all the approving decisions of work contracts with natural persons should be notified to the Supreme Council for the Selection of Personnel. The authority has the jurisdiction to control the legality of the work contracts in the sense that they do not conceal dependent work. In case the authority notes that the work contracts cover fixed and permanent needs that should have been dealt with the hiring of temporary employees on private law contract of definite time, it refers its findings to the competent bodies for the imposition of sanctions⁶³⁵.

It is obvious that the control on work contracts is not preventive, and thus the authority has to act on its own initiative through inspections, or upon complaint by citizens. The unit of the annual reports dedicated to inspections related to the control of the legality of work contracts show that they were not initiated ex officio. In the majority of cases the inspections were exercised upon citizens' complaints. In a few cases the authority intervened as a result of the reports of inspections of the Public Administration Controllers. Therefore, the authority seemed reluctant to act ex officio, despite the fact that it was not difficult to detect infringement cases through the approving decisions notified by the public sector agencies themselves.

In its annual reports the authority admitted that work contracts constitute a way to circumvent the general recruitment system, thus restoring the regime of clientelistic practices. The case of the recruitment of the personnel of the Citizen Service Centres was extraordinary (Law 3260/2004, art. 15, par. 1). It permitted the recruitment of natural persons on work contracts for a pilot period of twenty-four months, whereas that type of employment was incompatible with the administrative duties assumed by the personnel. On the other hand, the recruitment procedure was fully exempted from the control of the authority. The Supreme Council for the Selection of Personnel simply recommended that recruitments on work contracts should be under its

⁶³³ Article 1, par. 3 of the law 2527/1997.

⁶³⁴ Article 6 of the law 2527/1997 regulates the conclusion of work contracts with natural persons in services and legal entities of the public sector. According to the Greek Civil Code, the term work contract refers to the execution of a project from one party (contractor) in favour of another (employer) against remuneration. Work means the achievement of any outcome (e.g. construction, repair or maintenance of goods, offering of services, compilation of a study). Renewal or extension of the work contract is forbidden, whereas the legal service or the legal councillor of the public sector agency, as employer, should certify that the work contract is genuine and does not conceal dependent work, thus covering fixed and permanent needs of the public sector agency.

⁶³⁵ The heads of services or other competent bodies violating the provisions for the conclusion of work contracts are prosecuted for breach of duty under private prosecution or ex officio, and are compulsorily referred to the relevant disciplinary jurisdiction (article 21 par. 16 of the law 2190/1994).

jurisdiction as with the case of temporary employees. It never ruled the relevant provisions unconstitutional.

The case of the Ministry of Environment, Planning, and Public Works: Two months before the national elections of March 7, 2004, the governing party, PASOK, passed the law 3212/2003. Article 20 provided for the creation of 900 positions on private law contracts of indefinite time for the needs of the services of the Central Service and the General Secretariat of Public Works of the Ministry. The personnel would handle issues relating to anti-quake planning and protection, rehabilitation of physical disaster stricken, and execution of special works and provision of special services on environmental issues. Interestingly enough, par. 3 of the article, provided that the said personnel were allowed, upon request followed by the concurrent opinion of the relevant service councils, to be transferred to first and second-level local government authorities or the Regions. The Minister of Environment, Planning, and Public Works issued on January 9, 2004 a ministerial decision defining the special qualifications required for the positions, as well as details on the selection procedure. Hiring would take place by selection according to predefined criteria. The assessment committees, five in total, would be constituted by employees of the Ministry, whereas its President was a member of the Supreme Council for the Selection of Personnel nominated by the President of the authority. The unsuccessful candidates could file their objections. The committees would draft the assessment minutes, and submit them to the Supreme Council for the Selection of Personnel on a purely informative basis. The Minister issued two public announcements for the filling of the aforementioned positions on January 14, 2004⁶³⁶. The selection procedure was completed, and the successful candidates were appointed to the 900 vacant positions.

The case of the Ministry of Foreign Affairs: Articles 120 and 128 of the law 3566/2007, passed by the New Democracy government, amended the Organisational Chart of the Ministry of Foreign Affairs in relation to the selection procedure and the required special qualifications of the administrative personnel of the categories and branches UE and TE Administration, and SE Administration Secretaries. A central five-member selection committee would be constituted upon decision of the Minister of Foreign Affairs. Hiring would take place by competitive entry examination (written and oral examination). The Directorate for Personnel of the Ministry would formulate the text of the public announcement and send it to the authority in order to control the formal legality before its publication in the government gazette. The relevant selection lists with the successful candidates would be also sent to the authority for the control of legality. Before the amendment all the selection procedures relating to the administrative personnel of the Ministry of Foreign Affairs were realised by the Supreme Council for the Selection of Personnel. A relevant selection procedure following the new provisions was never activated.

The cases of the Court of Audit and other services pertaining to the Ministry of Justice: These cases refer to two legislative regulations circumventing the Supreme

⁶³⁶ The Public Announcement no 1041 for the filling of 56 positions (Government Gazette, vol. Supreme Council for the Selection of Personnel), and the Public Announcement no Δ16β/015/9/Φ.4.1.7 for the filling of 798 positions were published (Government Gazette, vol. Supreme Council for the Selection of Personnel, no 1, 14.1.2004). The President of the Supreme Council for the Selection Personnel nominated the President of the selection committees according to the documents 640/13.1.2004 and 643/13.1.2004 invoked in the text of the aforementioned public announcement.

Council for the Selection of Personnel through the pseudo-jurisdiction regime. Article 24, par. 8 of the law 3202/2003, passed by the PASOK government, provided that a number of vacant positions of the Court of Audit pertaining to certain categories of personnel⁶³⁷ would be filled in derogation of the provisions in force concerning the general recruitment system in the public sector. A joint ministerial decision of the Ministers of Justice, Finance, and the Interior, Public Administration and Decentralisation further specified the required qualifications, and the selection procedure. Hiring would take place by selection according to predefined criteria and an interview. The Selection Committee would forward the results to the Supreme Council for the Selection of Personnel for the control of legality. The Minister of Justice issued a public announcement for the filling of 70 positions of the category and branch UE Economists on October 4, 2005⁶³⁸. The selection procedure was completed, and the successful candidates were appointed to the 70 vacant positions⁶³⁹.

Article 72 of the law 3659/2008, passed by the New Democracy government, provided that a number of vacant positions pertaining to certain categories of personnel⁶⁴⁰ of various services under the supervision of the Ministry of Justice would be filled in derogation of the provisions in force concerning the general recruitment system in the public sector. Two joint ministerial decisions of the Ministers of Justice and Finance further specified the required qualifications, and the selection procedure. Hiring would take place by selection according to predefined social criteria for the positions of compulsory education, whereas the positions of the categories of University Education and Secondary Education would be filled by competitive entry examination (written examination and interview). A selection committee presided over by a high-ranking judicial official on active service or retired would be constituted upon decision of the Minister of Justice. A representative of the Supreme Council for the Selection of Personnel with his alternate would be nominated by the President of the Authority. The selection lists, accompanied by the minutes and the applications of the candidates, would be forwarded to the Supreme Council for the Selection of Personnel for control. The Committee would proceed to any corrections indicated by the authority and draft the final selection lists. The Minister issued two public announcements for the filling of the aforementioned positions⁶⁴¹. The relevant selection procedure was completed.

⁶³⁷ The new positions were distributed as follows: UE Economists (120 positions), SE Computer Operators (24 positions). The same selection procedure would be applied for all the other categories of personnel that still remained vacant.

⁶³⁸ The Public Announcement no 1/2005 (Government Gazette, vol. Supreme Council for the Selection of Personnel, no 405, 4.10.2005).

⁶³⁹ Government Gazette, vol. C, no 355/24.10.2006.

⁶⁴⁰ These categories comprised: UE Translators-Interpreters, UE and TE Informatics at the Central Service of the Ministry of Justice, 50 positions of the category and branch CE Bailiffs, and 156 positions of court employees distributed as follows: UE Secretaries (80 positions), UE Administration-Finance (4 positions), SE Secretaries (70 positions), SE Administration-Accounting (2 positions).

⁶⁴¹ The Public Announcement no 111648 was published for the filling of 44 positions of the category and branch CE Bailiffs. According to the Annual Report for the year 2008, one Councillor with his alternate was nominated as member of the Selection Committee. They were appointed in April 2009. (Government Gazette, vol. C, no 292, 27.4.2009). The Public Announcement no 5223 was published for the filling of 148 positions (Government Gazette, vol. Supreme Council for the Selection of Personnel, no 23, 2.2.2009). According to the Annual Report for the year 2009, one Councillor with his alternate was nominated as member of the Selection Committee.

The case of the Ministry of National Defence: Article 33 of the law 3648/2008 supplemented the Organisational Chart of the political personnel of the Ministry of National Defence in relation to the selection procedure of the scientific personnel. A joint ministerial decision issued by the Ministers of National Defence and Interior, Public Administration and Decentralisation further specified the required qualifications, and the selection procedure in derogation of article 19 of the general recruitment system (law 2190/1994) regarding the selection of scientific personnel. A three-member selection committee would be constituted upon decision of the Minister of National Defence. Hiring would take place by selection according to predefined criteria. The Supreme Council for the Selection of Personnel would proceed to the control of legality and ratify the results within ten days after their submission to the authority. In case the deadline expired without the ratification of the selection lists, the concurrent opinion of the authority would be presumed, and the Ministry would proceed to the appointment of those finally selected.

The Minister of National Defence issued a public announcement for the filling of the aforementioned positions on January 27, 2009⁶⁴². Many unsuccessful candidates submitted their complaints to the Greek Ombudsman. The authority judged that the procedure lacked transparency⁶⁴³, and forwarded its findings to the Supreme Council for the Selection of Personnel that had jurisdiction over the issue. The authority, after the control of legality, refused to ratify the results, and the Minister of National Defence under the newly elected PASOK government annulled the examination in September 2010. Interestingly enough, the annulment coincided with the Greek debt crisis, and the general suspension of appointments in the public sector.

In all the aforementioned characteristic cases, the authority failed to rule these legislative regulations unconstitutional. By issuing a decision of its Major Plenary, it could have ex ante blocked their implementation. The Council of State should have to make final decisions over these issues in case the competent Minister used legal remedies against the decisions of the Supreme Council for the Selection of Personnel. The authority simply restricted itself to point out in its annual report for the year 2007 that, according to the revised Constitution of 2001⁶⁴⁴, it is impermissible to

⁶⁴² The Ministerial Decision of the public announcement no 246263 was published for the filling of 55 positions of special scientific personnel on private law contract of indefinite time (Government Gazette, vol. B, no 92, 27.1.2009).

⁶⁴³ The authority in its letter addressed to the Supreme Council for the Selection of Personnel and notified to the Ministry of Defence judged that candidates who did not fulfil the required formal qualifications unjustifiably participated at the stage of the interview, whereas the minutes of the Committee did not fully justify its decision concerning the rejection of candidates at the stage of the interview. Letter of the Greek Ombudsman to the Ministry of Defence, Source: The Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/pdf_01/8464_1_EPISTOLH_STP.pdf, date of access: 26.10.2011.

⁶⁴⁴ Article 103, par. 7 of the revised Constitution of 2001 reads as follows: “*Engagement of servants in the Public Administration and in the wider Public Sector, as this is defined each time, with the exception of cases under paragraph 5, shall take place either by competitive entry examination or by selection on basis of predefined and objective criteria, and shall be subject to the control of an independent authority, as specified by law. The law may provide for special selection procedures that are subject to increased guarantees of transparency and meritocracy, or for special procedures for personnel selection to posts whose activities are subject to special constitutional guarantees or are similar to a mandate*”. Moreover, article 118 par. 6 of the revised Constitution of 2001 provides that “*Exceptions from the competence of the Supreme Council for the Selection of Personnel provided for or maintained in the law 2190/1994, as in force, [before the entry into force of the new constitution], continue to apply*”.

promulgate new legislative or other provisions of normative nature regarding recruitments in the public sector, thus bypassing it. However, the authority participated in these procedures in the case of the Ministry of the Environment, Planning, and Public Works, and in the cases of the Court of Audit and the various services supervised by the Ministry of Justice. The refusal to ratify the results in the case of the Ministry of the Defence was rather a result of the unfavourable economic and political juncture for the country. In the case of the non administrative and workers technical personnel, the authority simply proposed the abolition of this exception in its annual report for the year 1999⁶⁴⁵. Indeed, the issue was finally regulated by article 10, par. 5 of the law 3051/2002, at a time when the wave of privatizations had already started.

The legislative regulation regarding the administrative personnel of the Ministry of Foreign Affairs is of special interest. Before its entry into force, two different opinions had been formulated during the elaboration of the relevant Presidential Decree at the Council of State. The competent Department of the Council of State opined that the limitation of the competence of the authority to the simple control of legality of the public announcement and the selection lists with the successful candidates was contrary to the relevant provisions of the Constitution. Because of the seriousness of the case, the Department referred it to the competent plenary formation. Interestingly enough, the latter supported the regulation based on a rather unorthodox argumentation. More specifically, it opined that the simple control of legality was acceptable in cases of competitive entry examinations carried out by the interested public sector agencies. Therefore, any new clauses that entered into force after the constitutional revision of 2001 providing only for the control of legality⁶⁴⁶, and are contrary to clauses of laws as in force before the constitutional revision of 2001 providing that certain positions should be filled according to the provisions of the law 2190/1994, that is, after an examination carried out by the authority⁶⁴⁷, are in force and are not in contrast with the new constitutional provisions. The Court finally concluded that taking also into consideration article 118 par. 6 of the revised Constitution of 2001 it cannot be deduced at all that the constitutional legislator adopted a prohibition of the limitation of the competences of the authority as in force at the time of the revision of the Constitution since this is not explicitly provided for. In other words, the Court based this imaginative interpretation on the fact that the constitutional legislator should have otherwise explicitly regulated that, as is the case with article 118 par. 6 on the maintenance of exceptions, any competences of the authority as in force before the constitutional revision, continued to apply. Therefore, the Court accepted forms of pseudo-jurisdiction over recruitments, and disregarded the explicit constitutional demand for the control over recruitments by an independent authority, as prescribed in article 103, par. 7.

The authority expressed its strong reservations over the opinion of the Council of State in the annual report for the year 2007 since it hindered the authority from

⁶⁴⁵ Annual Report for the year 1999 (Government Gazette, vol. B, no 286, 12.3.2003).

⁶⁴⁶ Control of legality refers to the control of the public announcement and the selection lists forwarded to the authority by public sector bodies.

⁶⁴⁷ It should be reminded that the recruitment of the administrative personnel of the Ministry of Foreign Affairs was under the full jurisdiction of the Supreme Council for the Selection of Personnel.

proceeding to the substantial control of the procedure⁶⁴⁸. However, it could have ruled it unconstitutional since the opinion of the Council of State in the elaboration of Presidential Decrees has a consultative character. Therefore, the competent Minister should have to appeal to the Council of State for the final decision.

iv. The exceptions from the jurisdiction of the authority

A series of exceptions from the general recruitment system⁶⁴⁹ are reserved for certain categories of employees (judges, university professors, researchers, members of the armed forces, diplomats, doctors of the National Health System, revocable employees, special collaborators and advisors etc). These exceptions were considered necessary either because a special entry procedure with increased guarantees was provided for (e.g. judges, lawyers with a salary mandate) or because the nature of their duties was not compatible with the general recruitment system of the law 2190/1994 (e.g. artists, writers). In its annual reports the authority refers to the regime of exceptions pointing out that a part of them, especially those adopted by the initial law 2190/1994, are objectively justified, and are generally acceptable. However, even the initial law contained a provision that all categories of the personnel of the full-fledged or joint enterprises of local government authorities were, unjustifiably in our opinion, exempted.

A series of additional exceptions were gradually introduced, and the authority acknowledged that they had neither objective support, nor substantial justificatory basis. Interestingly enough, article 1, par. 12 of the law 2527/1997 provided that by decision of the Minister of the Interior, Public Administration and Decentralisation and the competent Minister, adopted upon recommendation of the Supreme Council for the Selection of Personnel, public sector agencies or categories of personnel that are exempted may fall, fully or partly, within the scope of the general recruitment system of the law 2190/1994. The authority neither put pressure for the implementation of this option nor challenged the unjustifiable exceptions through a decision ruling them unconstitutional.

c. The second facet: Cases relating to the terms of the recruitment procedure

The second facet corresponds to provisions violating the constitutional principles of equality and meritocracy in relation to the terms of the recruitment procedure. Four characteristic cases are presented hereafter.

i. The discrimination of specialties in competitive entry examinations

Competitive entry examination represented, at least in the beginning, the cornerstone of the general recruitment system. However, the law 2190/1994⁶⁵⁰ provided that only administrative positions of the categories of University, Technological, and Secondary education would be filled by competitive entry examination. More specifically, bachelor graduates in law, political or economic sciences, sociology, business administration, archives and library science, accounting, and graduates of faculties of

⁶⁴⁸ Substantial control refers to the access of the authority to all the documents submitted by the candidates in order to prove their formal qualifications.

⁶⁴⁹ Article 14 par. 2 of the law 2190/1994.

⁶⁵⁰ Article 15, par. 1 of the law 2190/1994.

philosophy and education fell under the ambit of the provision. On the contrary, technical positions⁶⁵¹, in the broad sense, of the categories of University, Technological, and Secondary education would be filled by selection according to predefined and objective criteria. Therefore, there is discrimination in relation to the specialties since the candidates for administrative positions have to bear the burden of psychological suffering through an additional examination. Papadopoulou (2005) argues that the reason for this discrimination should be sought in extra-legal criteria, as is the power of certain chambers and bodies. The authority never called into question the arrangement.

ii. The case of the panhellenic competitive entry examination of the year 1998

The results of the panhellenic competitive entry examination of the year 1998 provoked tremendous reactions on the part of unsuccessful candidates who appealed to the administrative courts. The issue attracted publicity and extensive coverage by the media. The judgements 2396-2398/2004 of the Council of State in Plenum ruled unconstitutional three provisions regulating the terms of the selection procedures regarding panhellenic competitive entry examinations⁶⁵². All these provisions were judged incompatible with the constitutional principles of meritocracy and equality since they provided that i) the candidates could express a preference for only one prefecture, ii) they were additionally restricted to declare a preference for maximum ten public sector agencies within the one prefecture they opted for appointment, and iii) the candidates would be selected based on a quota of 50% for each type of lyceum, that is graduates of technical and general lyceums, thus disregarding the criterion of the best performing candidates.

While the cases were still pending in courts, and before the publication of the aforementioned final judgements of the Council of State in 2004, the common legislator proceeded to the deletion of the limitation of one prefecture and ten public sector agencies⁶⁵³ (article 6, par. 2 of the law 3051/2002). Furthermore, article 1, par. 6 of the law 3051/2002 showed the political will for the substantial abolition of the written examination as a selection procedure in the public sector. It restricted its application in cases of special branches of personnel upon request of the public sector agency. As for the solution given in the case of the competitive entry examination of the year 1998, article 5 of the law 3200/2005 provided the drawing up of a new panhellenic selection list after the submission of new applications of preferences by the unsuccessful candidates. In other words, those who had been initially appointed with lower scores were not affected by the measure, and remained in their positions.

⁶⁵¹ According to article 18 of the law 2190/1994, the term refers to the specialties of archeologist, political engineer, chemist, electrical engineer, agronomist, geologist or agricultural technicians, doctor, psychologist, veterinarian, inspector of public health, food technologist, dental technician, and gaffer.

⁶⁵² See Appendix 1, text 2 for an analysis of the rationale of the judgements of the Council of State.

⁶⁵³ Apart from the case of the examination of the year 1998, unsuccessful candidates appealed against relevant selection procedures. According to the Annual Report for the year 2004, more than 120 applications of annulment were submitted to the administrative courts against the public announcement 15/2Γ/2002 for the filling of 709 positions at the Ministry of Finance through a panhellenic competitive entry examination. The candidates once more appealed against the limitation of preference for one prefecture, as well as the limitation of preference for ten public sector agencies by prefecture.

Interestingly enough, in the annual reports for the years 1998⁶⁵⁴, and 2000⁶⁵⁵, the authority had already admitted that both the quota system in relation to the type of lyceum, as well as the system of the limitation of preferences for one prefecture, and ten public sector agencies violated the constitutional principles of equality and meritocracy. It simply suggested that the common legislator should abolish the relevant unconstitutional provisions. However, it failed to block ex ante the implementation of the relevant provisions by ruling them unconstitutional.

iii. The home-grown candidates' criterion for the hiring of temporary personnel

Article 21 of the law 2190/1994 regulates the selection procedure for the hiring of temporary personnel in public sector agencies, that is, personnel on private law contracts of definite time. The candidates for these positions are classified in selection lists by specialty based on the home-grown candidates' criterion, irrespective of their ranking if all the other criteria were assessed. Thus, those citizens who are enrolled in the registers of a certain municipality or community have priority in the selection lists when the public sector agency that hires is the said municipality, or community, or a municipal or community enterprise or a public law legal entity or foundation pertaining to the said municipality or community. If the public sector agency that hires is a public sector agency or a public law legal entity (municipalities or communities exempted), the candidates enrolled in the registers of a municipality or community of the prefecture where the public sector agency that hires is located have priority in the selection lists. The measure obviously violates the constitutional principle of equality, and probably serves clientelistic purposes especially in the case of hirings in municipalities or communities. However, it was never ruled unconstitutional by the authority.

iv. Privileged ensuring of experience in public sector agencies

A series of provisions⁶⁵⁶ introduced the privileged treatment of candidates with previous work experience in public sector agencies as temporary employees or apprentices. Therefore, experience as one of the selection criteria for the filling of permanent positions, if obtained in public sector agencies, was double counted compared to that obtained in the private sector. In its annual report for the year 2007⁶⁵⁷ the authority stated that those clauses providing for a privileged marking increased by 50% for experience obtained in public sector agencies under work contracts or STAGE programmes should be abolished. The report further pointed out

⁶⁵⁴ The Annual Report for the year 1998, p. 3475-3476.

⁶⁵⁵ The Annual Report for the year 2000, p. 3534.

⁶⁵⁶ The idea for the privileged ensuring of experience obtained in public sector agencies was introduced by the law 3051/2002. The increase in the estimation of a candidate's previous experience in the public sector agency that hired personnel to permanent positions initially amounted to 40%. Article 2 par. 1 of the law 3320/2005 extended the arrangement to any experience obtained in duties of the same or similar specialty with the permanent position to be filled, either on private law contracts or work contracts, in any public sector agency that fell under the jurisdiction of the Supreme Council for the Selection of Personnel. The increase in the relevant estimation amounted to 50% under the precondition that the candidate had at least worked for 24 months (consecutive or not). Finally, participation in programmes for the acquisition of working experience (STAGE) of the Manpower Employment Organization was equally considered as time of experience. Article 11, par. 3 of the law 3613/2007 extended the deadline of the application of the measure until December 31, 2010.

⁶⁵⁷ The Annual Report for the year 2007, p. 37822-37823.

that experience should be avoided as a formal criterion of appointment since it leads to the violation of the principle of equity towards those candidates who do not have the possibility to get hired under work contracts or participate in STAGE programmes where the selection of candidates is not under the control of the authority. As for the experience obtained in STAGE programmes, the authority stressed in its report that it is rather fictitious since the participants in these programmes are employed as apprentices, and thus they are less employed in real work. The authority once more acknowledged the unconstitutionality of these clauses in its annual report. However, it failed to rule them unconstitutional, thus preventing their implementation.

d. The Greek debt crisis and the reform of the recruitment system in the public sector

The law 3812/2009 on the “Reform of the recruitment system in the public sector” was promulgated on December 2009, that is, at the beginning of the Greek debt crisis. It seems that it was part of the broader public sector rationalization scheme. The Explanatory Report on the draft law submitted to Parliament⁶⁵⁸ stated that the basic axes of the proposed draft law was i) the inclusion of the whole spectrum of the public sector under the full jurisdiction of the Supreme Council for the Selection of Personnel⁶⁵⁹, and ii) the restoration of injustices and internal imbalances within the current recruitment system, so as to redress transparency, objectivity, and meritocracy in hiring. But, ironically, the reform in the recruitment system would remain inactive, that is, an arrangement with a rather symbolic significance in the electorate’s conscience. The public sector rationalization scheme would be simultaneously accompanied by the privatization, disbandment or merger of public sector agencies, the reorganization of public services, the outsourcing of certain competences, and the inevitable firing of thousands of the surplus personnel. It seems that the reform in the recruitment system came too late simply because the recruitment of permanent personnel will be rare in the future. Thus, the measure rather institutionalized the collapse of the remaining clientelistic practices at a time when the political clientele was vanishing.

In the annual reports for the years 2009 and 2010 the authority stated that its role was restored, whereas it expressed its vindication since it had repeatedly proposed a series of regulations that were finally incorporated into the new law. However, in effect, the authority had limited itself to the simple observation of distortions in the recruitment system through the annual reports without making use of its functional independence. Therefore, it seems that the regulator failed to block the will of the political decision-makers to partly manipulate the recruitments in the public sector through the control of the constitutionality of the provisions that fell under the ambit of its regulatory field. In other words, the regulatee-public administration that simultaneously makes the rules of the game under the role of the political decision-makers managed to capture its regulator.

⁶⁵⁸ Explanatory Report on the draft law “Reform of the recruitment system in the public sector”, available at: <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/A-ASEP-eis-A.pdf>, date of access: 31.11.2011.

⁶⁵⁹ According to the Explanatory Report of Parliament, the few exceptions that remained (judges, university professors, researchers, personnel of the armed forces, diplomats, doctors of the National Health System etc) concern personnel whose selection is governed by transparent, objective, and meritocratic procedures.

SUMMARY

A simulative control of the constitutionality of laws relating to the regulatory field of the Supreme Council for the Selection of Personnel served as a method for the identification of regulatory failure. This hypothetical retroactive experiment was based on legal theorists' positive approach to the legitimization of the independent authorities to implement the control of the constitutionality of field-specific provisions. In other words, the authorities should challenge legislative regulations designed and promulgated by the political decision-makers in their double role as principals-agents of the regulator. Thus, it was considered that the identification of unconstitutional clauses violating the constitutional principles of equality and meritocracy in relation to the recruitments in the public sector would facilitate testing the regulator's neutrality vis-à-vis public administration. Two facets of these infringements in the relevant legislation were tested regarding their constitutionality. The first facet is related to the broadness of the jurisdiction of the authority over recruitments in the public sector, that is, clauses providing for partial and pseudo-jurisdiction, as well as unjustified exceptions from the general recruitment system, whereas full jurisdiction is considered as the ideal case. The second facet corresponds to clauses concerning flawed terms of the recruitment procedure itself, irrespective of the type of jurisdiction over recruitments. A series of cases-provisions of both facets briefly presented and commented prove that the authority failed to rule them unconstitutional, thus avoiding conflict with the political decision-makers-public administration. The authority simply restricted itself to raise issues of constitutionality in the annual reports. Interestingly enough, it was the common legislator under the pressure of the Greek debt crisis that restored these legislative distortions, albeit at a time when the state started to shrink.

3. The Hellenic Data Protection Authority

a. *The Decision 27/2007*

The recent reform in higher education, as reflected in the law 4009/2011, was a source of inspiration for assessing the decision 27/2007 of the Hellenic Data Protection Authority⁶⁶⁰. Reforms always seek to correct what might have gone wrong in the past. However, the human factor itself plays a crucial role in the effective functioning of institutions irrespective of the orientation of the sector specific policies. Selecting university professors based on meritocracy through transparent procedures safeguards not only the survival of an institution for the future but also protects the public interest. The common legislator of the law 2083/1992 explicitly provided for transparency in the university professors' selection procedures through the publication of the selection minutes in a special volume freely accessed to the interested persons. In other words, the common legislator imposed to universities the status of own-initiative publicity. However, when the issue of the permissibility of publishing the selection minutes in the internet arose -a technological evolution that was beyond the knowledge and imagination of the common legislator in 1992- the Hellenic Data Protection Authority gave an interpretation which was favourable for the regulatee, that is, the universities that posed the question in the first place. The section comprises the following: i) the criticisms and views expressed on the decision in a newspaper article, and an internet forum, and ii) the assessment of the decision.

b. *The debate on the Decision 27/2007*

The decision of the authority provoked intense debate on the internet among university professors working in higher education institutions both in Greece and abroad. The controversy was triggered by an article entitled "*The "personal data" and the lack of transparency in Higher Education Institutions*" which was written by Nikolaos Theotokas⁶⁶¹, and was published in the newspaper *Avgi*⁶⁶², on October 17, 2007, namely, six months after the issue of the decision by the authority. Theotokas fiercely criticised it. He stressed the fact that the decision was pending since February 2006, that is, shortly before the preliminary draft of the framework law on the "neoliberal" reform in higher education was made public by the Ministry of Education. He argued that article 18 of the preliminary draft law entitled "Transparency-Publicity" provided that "*. . . the Faculties or the Departments are obliged to offer through their websites full information about the procedures related to the selection of the members of the TRS*"⁶⁶³. In his opinion, due to this unexpected development, the authority put off the discussion of this thorny topic. Interestingly enough, the aforementioned provision was not included in the final draft law that the

⁶⁶⁰ See Appendix 3, text 1 containing the full-text of the decision.

⁶⁶¹ Professor at the Department of Political Science and History, Panteion University of Social and Political Sciences. He teaches historical and theoretical sociology. He is also a trade-unionist. He was former President of the aforementioned Department, and former Secretary General of the Panhellenic Confederation of Associations of the Teaching and Research Staff (TRS).

⁶⁶² The newspaper "I Avgi (=the Dawn) was founded in 1952. It is a morning daily newspaper expressing the views of the left.

⁶⁶³ The part of the text preceding this sentence, finally omitted, reads as follows: "*The Faculties or the Departments are obliged to upload on their websites curriculum vitae with the studies, scientific experience, research work as well as the main scientific publications of their TRS members subject to the provisions of the legislation in force on the protection of personal data*".

government submitted to Parliament. Theotokas further noted that the Coalition of the Radical Left (SYRIZA)⁶⁶⁴ proposed an amendment, and asked the restoration of the previous provision⁶⁶⁵.

Theotokas pointed out that the text of the law that was finally voted by Parliament, namely the law 3549/2007, did not contain any anticipation regarding the publication of the procedures related to the TRS members' elections. In his opinion, it was one more victory for university conservatism and clientilistic networks in higher education institutions that "*fear transparency and publicity like their sins*". He ironically added that behind closed doors they all are very sensitive to the issues of "evaluation" and "social accountability". Theotokas remarked that twelve days after the publication of the new law in the government gazette⁶⁶⁶ the Hellenic Data Protection Authority met with more than one year delay⁶⁶⁷ in order to examine the pending issue on the publication of the minutes. He also pointed out that four of the seven members were university professors, whereas the rapporteur, one of the members, was a university professor as well. Theotokas supported that, as the new law did not finally change, the provisions of the law 2083/1992 were still in force. Therefore, the minutes should be published each year in a special volume with the responsibility of the competent Department and should be accessible to any interested person.

Theotokas argued that the authority completely disregarded the real meaning of the term "publication", and proceeded to an extreme narrow [mis]interpretation of the law. He quoted Mayer's⁶⁶⁸ phrase according to which "*publication is the sole of*

⁶⁶⁴ This political force, commonly known by its Greek abbreviation ΣΥΡΙΖΑ (SYRIZA), is a coalition of left political parties and organisations in Greece. In other words, it does not constitute a unified political force, but it is rather an alliance of parties and organisations of the Greek left. Coalition (Synaspismos), is the largest party to be a member of the coalition. The alliance participated for the first time in the national elections of 2004, whereas the process that ended up in its formation can be traced back to the *Space for Dialogue for the Unity and Common Action of the Left* in 2001. In the national elections of 2004 it gathered 241,539 votes (3.3% of the total), and elected six members to parliament. In the national elections of 2007 it gained an unexpected 5,04% (361,211 votes) and elected 14 members to parliament. Finally, in the national elections of 2009 the votes for SYRIZA decreased (315,627 votes, 4,60% of the total), thus losing one seat in Parliament. Source: Wikipedia, available at: http://el.wikipedia.org/wiki/%CE%A3%CF%85%CE%BD%CE%B1%CF%83%CF%80%CE%B9%CF%83%CE%BC%CF%8C%CF%82_%CE%A1%CE%B9%CE%B6%CE%BF%CF%83%CF%80%CF%85%CF%83%CF%84%CE%B9%CE%BA%CE%AE%CF%82_%CE%91%CF%81%CE%B9%CF%83%CF%84%CE%B5%CF%81%CE%AC%CF%82, date of access: 25.11.2011.

⁶⁶⁵ The proposed amendment read as follows: "*The Faculties or the Departments are obliged to offer through their websites full information about the procedures related to the selection of the members of the TRS. The minutes concerning the public calls, the constitution of the electoral bodies and introductory committees, the introductory reports and the minutes of the selection of each member of the TRS are publicized and uploaded on the website of the Department*".

⁶⁶⁶ The law 3549/2007 on the "Reform of the institutional framework on the structure and operation of higher education institutions" was published in vol. A, no 69 of the Government Gazette on March 20, 2007.

⁶⁶⁷ According to the text of the authority's decision, the members of the authority, in effect, met on June 15, 2006 in order to discuss the issue, whereas the decision no 27/2007 was made public on April 2, 2007, that is, twelve days after the publication of the new law in the government gazette.

⁶⁶⁸ John Jacob Mayer (Zurich 1798-Messologhi 1826) was a Swiss philhellene and Editor of the newspaper "Greek Chronicles", the first published newspaper of the war of independence.

Democracy". However, in the opinion of the authority, the protection of personal data and the informational self-determination prevail over publication. Theotokas stressed that the Constitution considers that university professors are public functionaries, whereas the law explicitly imposes publicity in relation to the procedures of their election for reasons of public interest. He reminded that article 5, par. d of the law 2472/1997 on data privacy provides that the publication is permitted even without the consent of the interested party only if this is imposed by the law or when it concerns the performance of a task carried out in the public interest or a project carried out in the exercise of public function by a public authority.

The newspaper article was commented on the Greek University Reform.org, a forum of dialogue where texts, links, reviews, complaints, and journal articles on higher education in Greece and the need for reform are posted⁶⁶⁹. The section of the forum dedicated to the article was entitled "*Personal data and the lack of transparency in Higher Education Institutions*"⁶⁷⁰ and a number of Greek university professors working in Greece and abroad participated in the debate⁶⁷¹ that started on October 17, 2007, and ended on November 1, 2007. One of the debate participants gave the information that the decision of the authority was the result of a request for an opinion on the permissibility of the publication of the selection minutes on the Internet submitted by the then President of the Department of Archives and Library Science of the Ionian University, Professor G. M. The Unified Association of the Teaching Staff of the Ionian University "Petros Vrailas-Armenis", member of the Confederation of Associations of the Teaching and Research Staff, announced through a press issue dated 14.2.2006⁶⁷² that it had decided to disclose on its website the minutes of the meeting of the electoral body that rejected the election of a non-tenured Assistant Professor to the tenured position of Assistant Professor⁶⁷³. The President of the Department, G.M., had presided over the meeting and signed the relevant minutes. According to the text of the decision of the authority, the President of the Department submitted his request to the authority on February 15, 2006, that is, one day after the disclosure of the minutes on the Internet.

The debate participants expressed opposing views on the issue. The university professors working abroad pointed out that no minutes are kept of these meetings in the U.S., even in the case of public universities, and generally noted that such practices are uncommon in most countries. The publicization of the minutes become

⁶⁶⁹ The electronic forum was created by Themis Lazaridis in 2005. He is Professor at the Department of Chemistry, City College of New York. The new website address is: <http://www.gurforum.org>.

⁶⁷⁰ The debate on the issue is available at: <http://greekuniversityreform.wordpress.com/2007/10/17/%CF%84%CE%B1-%C2%AB%CF%80%CF%81%CE%BF%CF%83%CF%89%CF%80%CE%B9%CE%BA%CE%AC%CE%B4%CE%B5%CE%B4%CE%BF%CE%BC%CE%AD%CE%BD%CE%B1%C2%BB-%CE%BA%CE%B1%CE%B9-%CE%B7-%CE%B1%CE%B4%CE%B9%CE%B1%CF%86%CE%AC%CE%BD/>, date of access: 09.10.2011

⁶⁷¹ Some of the university professors participate anonymously.

⁶⁷² Source: The Website of the Unified Association of the Teaching Staff of the Ionian University "Petros Vrailas-Armenis", Press Issue dated 14.2.2006, available at: <http://www.ionio.gr/~papabas/vrailas/>, date of access: 26.11.2011.

⁶⁷³ The minutes of the meetings of the electoral bodies are recorded. They are afterwards transcribed and signed by the President and the Secretary of the Department. The full text of the minutes dated 15.06.2005 is available at: <http://www.ionio.gr/~papabas/vrailas/eisigiseis/praktika-apolisismoschopoulou.pdf>, date of access: 26.11.2011.

part of a bureaucratic procedure proving that the Greek universities are not considered capable and competent to regulate their internal selection procedures despite the fact that they are self-governing institutions. As a result, the Council of State produces jurisprudence regarding the details of the selection procedure in the name of bureaucracy, obstruction, stagnation, and lawyers. One of the debate participants observed that excessive transparency might facilitate the development of conciliation practices on the one hand, and serve populist purposes on the other. In his view, the non-disclosure of the minutes protects the members of the electoral bodies from the abuse of a wider publicization of their assessments that would probably satisfy populist pursuits. He stressed that the candidates' personal data seem to be the good the least exposed since those of the members of the electoral bodies in the sense of the views expressed and the procedure itself are in real danger.

Another group of the debate participants supported the disclosure of the minutes on Internet, and based their argumentation on four axes. First, the selection minutes are part of a complex administrative action⁶⁷⁴ that is concluded with the publication of the act of the elected candidate's appointment in the government gazette. All the stages of the selection procedure are considered as administrative acts that may be appealed to the administrative courts in terms of legality by those who have legitimate interest, that is, unsuccessful candidates, members of the electoral bodies, or students participating in the meetings of the electoral bodies. Therefore, their disclosure is relevant from a legal perspective since it saves useful material for the court on the one hand, and makes those judging feel vulnerable because they are obliged to perfectly document their rejection or approval on the other. In other words, publicization might serve as a deterrent. Second, the principles of transparency and accountability are indispensable parts of any procedure related to public interest. University professors are public functionaries and universities are public law legal entities financed by the state. Therefore, taxpayers have the right to know how public money is spent. Third, minutes are administrative documents accessible to citizens. Court decisions are also made public. Both categories do not attract general interest, even if uploaded on the Internet, since only a specific part of the public will seek for such information. Fourth, most university professors upload their curriculum vitae and publications on the Internet. Therefore, any such information incorporated in the selection minutes does not violate privacy.

⁶⁷⁴ Tachos (2005) defines the term complex administrative action as follows: "*A complex administrative action exists when the relevant provisions define that for the occurrence of the final legal effect a number of successive administrative acts are required. The publication of each one of them is a precondition for the publication of the next one, whereas the final act incorporates all the previous ones, which thus lose their autonomy. Within the complex administrative action each one of the acts that constitute it is issued under a specific procedure. The concept of the complex administrative action is particularly relevant for the judicial review of the administrative acts*". According to the jurisprudence of the Council of State (Decision 3619/1995) the complex administrative action presupposes the publication of at least two consecutive administrative acts for the intended effect to occur. The election of university professors is considered as a complex administrative action (Council of State, Decision 1966/1988).

c. A decision weakly supported?

Apart from the Constitution and the relevant legislation, the information and the views expressed in the newspaper article and the internet debate served as an additional useful tool to assess the validity of the decision 27/2007 of the Hellenic Data Privacy Authority. The decision presents certain weaknesses that are analysed hereafter.

i. A conflict of interest situation

The rapporteur of the case as well as the majority of the members of the authority that participated in the meeting that was held on June 15, 2006, that is, four of seven, were university professors themselves. It is far from clear that the issue under discussion affected their professional interests. Therefore, a conflict of interest situation was created, and a favourable decision for universities, that is, the regulatee, was rather inevitable.

ii. The law 3549/2007 probably facilitated the justificatory basis of the decision

The long delay in the issue of the decision proved by the mismatch between the date of the meeting (15.06.2006) and the date of the issue of the decision (02.04.2007) probably justifies Theotokas's allegations. Theotokas, as a trade-unionist, gives detailed information on the different stages of the formulation of article 18 entitled "Transparency-Publicity" of the law 3549/2007. The provision for the publication of the selection minutes on Internet was finally eliminated. If we accept Theotokas's version of events, the authority proceeded to the issue of its decision only after the publication of the new law in the government gazette on March 20, 2007, that is, when it made sure that the contested provision was not contained in the new law on higher education.

iii. The ignorance of the Italian paradigm

In the text of the decision it is mentioned that the respective British, Norwegian, Polish, and Spanish authorities on data privacy were also consulted on the issue⁶⁷⁵. However, there is no detailed reference on their views and arguments. But, most importantly, it remains unknown whether similar cases were compared. In other words, this consultation should have been based on two pillars: similar legislation regarding the university professors' selection procedures, that is, the existence of minutes, and the provision and conditions for their access and publication. On the other hand, the authority seemed to ignore the most similar case, that is, the Italian paradigm which could have eventually contributed to drawing safer conclusions. More specifically, article 2 par. h of the Italian law n. 210 of July 3, 1998 on "the Rules regarding the recruitment of researchers and university professors" provides that "*1. The regulations referred to in Article 1, par. 1, regarding procedures for appointments, in each case must include: . . . h. the terms for the completion of the assessment procedure and the related forms of publicity, which, in any case, include the justified judgements expressed for each candidate by each member participating in the committee. Such judgements shall be, in any case, published electronically and*

⁶⁷⁵ Article 19, par. 1, subpara. n of the law 2472/1997 reads as follows: "It [the authority] shall co-operate with the respective authorities of other member states of the European Union and the Council of Europe on matters relevant to the exercise of its powers".

*through the official bulletin of the Ministry of university and scientific and technological research*⁶⁷⁶”.

Indeed, in the Italian case, the so-called final report, *relazione finale*, constitutes the minutes of the comparative assessment procedure for the recruitment of the academic ranks of researchers, associate professors, and full professors, and is drafted and signed by the members of the Judging Committee. The minutes are uploaded on the Internet, namely the Official Website of each University and the Official Website of the Italian Ministry of Education, University, and Research. These multi-paged and detailed final reports-minutes contain all the personal data of the candidates regarding their studies, professional and scientific profile as well as the personal and collective assessments of the Judging Committees and are inevitably accessible to an innumerable number of recipients in Italy and abroad⁶⁷⁷. It seems that publicity regarding the university professors’ selection procedures through internet is fully acceptable by the national data protection authority, the *Garante per la protezione dei dati personali*.

iv. Can publicity be quantified?

Following freedom of information legislation in Greece⁶⁷⁸, the selection minutes are indisputably considered as administrative documents. However, the common legislator of the law 2083/1992 moved a step further from simply accessing an administrative document upon request, and reserved the status of an own initiative provision of information through the publication of the minutes in a special volume. In our opinion, it is far from clear that the common legislator expressed his crystal clear will for publicity in the sense that he sought to achieve transparency of the administrative action regarding the university professors’ selection procedure. And the common legislator’s will seems identical to that of the Italian legislator the only difference being that as early as 1992 information and communication technologies (ICTs), the Internet, among others, were almost unknown outside a close circle of scientists and researchers.

In its decision the authority does not challenge the issue of transparency-publicity *per se* in terms of infringing the subject’s personal data. However, it proceeds to a quantification of the publicity of the minutes, that is, once published in multiple volumes or uploaded on the internet the protection of the subject’s personality and

⁶⁷⁶ The original text of the law reads as follows: “1. I regolamenti di cui all’ articolo 1, comma 1, relativamente alle procedure per la nomina in ruolo, devono in ogni caso prevedere: . . . h) i termini per l’espletamento della procedura di valutazione e le relative forme di pubblicità, che comprendono comunque i giudizi motivati espressi su ciascun candidato da ciascun componente la commissione. Tali giudizi, in ogni caso, dovranno essere resi pubblici per via telematica e tramite il bollettino ufficiale del Ministero dell’università e della ricerca scientifica e tecnologica. . .” Source: The Official Website of the Italian Ministry of University and Research, available at: http://www.miur.it/0006Menu_C/0012Docume/0098Normat/1612Norme__cf2.htm, date of access: 28.09.2011.

⁶⁷⁷ A characteristic example presents the webpage regarding the procedures of comparative assessment contained in the Official Website of the University of Milan (Università degli Studi di Milano) where all the final reports are uploaded on the Internet. They are available at: <http://www.unimi.it/ateneo/valcomp/1473.htm>, as well as via the website of the Italian Ministry of Education, University and Research, date of access: 20.11.2011.

⁶⁷⁸ See Appendix 3, text 2 containing a short presentation of freedom of legislation and relevant provisions of the revised Constitution of 2001.

personal data is violated. The authority justifiably argues that “*the publication of the minutes constitutes a form of processing of personal data in accordance with article 2d of the law 2472/1997, and specifically it falls within the concept of “dissemination” which, contrary to “transmission”, is addressed to a potentially unlimited number of recipients*”. Nevertheless, it failed to take into consideration the fact that in this case dissemination also serves the public interest⁶⁷⁹. Under such circumstances, pursuant to article 5 par. 2 of the law 2472/1997, data may exceptionally be processed even without the subject’s consent, “only if, among others, processing is necessary for the performance of a task carried out in the public interest or a project carried out in the exercise of public function by a public authority or assigned by it to the Controller or a third party to whom such data are communicated”. Therefore, the interests of the state, that is, transparency in university professors’ selection, should have been balanced against the disproportionate dissemination of personal data through internet.

d. The decision 27/2007: A case of regulatory capture?

The questions concerning the permissibility of publishing the university professors’ selection minutes in the Internet submitted to the Hellenic Data Protection Authority by two Presidents of University Departments in 2006 as well as the final elimination of the relevant clause from the law 3549/2007 rather prove the reluctance of the Greek academic community to accept transparency in the recruitment procedures. At that moment the authority came to block an uncontestable case of own-initiative provision of information by the state with the rather irrational alibi of disproportionate dissemination of personal data.

On the other hand, the debate participants who supported the view that any form of publicity regarding the selection of university professors in Greece is an uncommon practice in the academia that simply promotes conciliation practices, populism, and lust for law, seem to ignore the constitutional and legal constraints of the relevant recruitment system. Indeed, there exist an insurmountable chain of interdependencies. The Constitution provides that higher education institutions are public law legal entities, fully self-governed. They operate under the supervision of the State, whereas university professors are public functionaries. Within this framework, the legality of the university professors’ selection procedures is compulsorily subject to the control of the Ministry of Education, whereas those who have a legitimate interest may also appeal to the administrative courts. The selection minutes are not only administrative documents freely accessed according to the Constitution and the relevant legislation but also an own-initiative publicity status has been reserved for them by the common legislator. Even if we accepted the view that the selection procedures should be

⁶⁷⁹ In its preliminary ruling C-465/00 and C-138/01, *Rechnungshof v. Österreichischer Rundfunk* 20.5.2003 requested by the Austrian Constitutional and Supreme Courts, the Court of Justice of the European Union (former Court of Justice of the European Communities) judged that articles 6 par. 1, subpara. c and 7 subpara. c and e of the Directive 95/46 on the protection of personal data do not hinder the implementation of a national regulation permitting the wide disclosure of the income-data of persons subject to the control of the Austrian Court of Audit provided that the disclosure not only of the income data but also of the names of the recipients of that income is necessary for and appropriate to the objective of proper management of public funds. Source: The Official Website of the European Commission, ECJ decisions relating to data protection, prepared by Laraine Laudati, OLAF DPO, available at: <http://ec.europa.eu/dgs/olaf/data/doc/Summary-caselaw-EU-courts.pdf>, date of access: 29.11.2011.

confidential following international practice, it would have been impossible to overcome the constraints of the Constitution and administrative law. Otherwise, the common legislator should have to explicitly classify them as confidential together with those categories of public documents that are explicitly classified as such, that is, the documents related to national defence, foreign policy, state security, public order, discussions of the cabinet and other governmental organs, public faith, currency etc. Therefore, generalisations regarding unsimilar legal civilizations seem inappropriate.

In October 2010 the Ministry of Education, during the elaboration of the reform scheme in higher education institutions undertaken by the PASOK government after its victory in the national elections of 2009, conducted an investigation regarding cases of nepotism in Universities, Technological Educational Institutes, and research bodies of the General Secretariat of Research and Technology⁶⁸⁰. There was evidence of nepotism in certain university schools, such as Medicine, Theology, Law, where it was found that members of the same family were serving together. The Deputy Minister of Education stressed that he would definitely put an end to contentious elections of university professors. On the other hand, the case of the Ionian University, where trade-unionists uploaded the selection minutes on the internet, seems to imply that certain interests and rivalries developed within the institution, probably irrelevant with a candidate's scientific and teaching competences, ended up with the dismissal of a non-tenured TRS member.

It should also be reminded that in his article, Theotokas, a trade-unionist himself, overtly denounced the existence of clientelistic networks in higher education institutions, thus indirectly linking selection procedures to party politics. It would be impossible to identify the card-carrying members of the political parties in the academic community in Greece. However, the following characteristic event probably unravels that partisanship is not uncommon in Greek universities; quite the contrary. During the race for the leadership of PASOK in 2007⁶⁸¹, two texts containing a declaration of support⁶⁸² for the candidacy of Evangelos Venizelos⁶⁸³ were issued and

⁶⁸⁰ Article in the newspaper "TA NEA" entitled "*Investigation going back fifteen years in time for nepotism in higher education institutions*", published on November 11, 2010, available at: <http://www.tanea.gr/ellada/article/?aid=4603598>, date of access: 28.09.2011.

⁶⁸¹ "After the legislative elections of 2007, in which PASOK was soundly defeated, Venizelos announced his candidacy for the leadership of the party. In the leadership election, held on 11 November 2007, Venizelos was defeated by incumbent party leader George Papandreou, receiving 38.18% of the vote against 55.91% for Papandreou". Source: Wikipedia, available at: http://en.wikipedia.org/wiki/Evangelos_Venizelos, date of access: 06.11.2011

⁶⁸² The full texts of the declaration of support signed by 166 university professors are uploaded on the personal website of E. Venizelos, available at: <http://www.evenizelos.gr/el/statementsgr/-2010/289-2009-03-31-19-07-13>, date of access: 19.05.2010.

⁶⁸³ He is Professor of Constitutional Law at the Aristotle University of Thessaloniki under suspension of duties. E. Venizelos was elected MP with PASOK in the Thessaloniki A constituency in the general elections of 1993, 1996, 2000, 2004, 2007 and 2009. He has served in the following government posts: Deputy Minister to the Presidency, and government spokesman, 13 October 1993 to 8 July 1994, Minister for the Press and the Media, and *government spokesman*, 8 July 1994 to 15 September 1995, Minister for Transport and Communications, 15 September 1995 to 22 January 1996, Minister for Justice, 22 January to 5 September 1996, Minister for Culture, 25 September 1996 to 19 February 1999, Minister for Development, 19 January 1999 to 13 April 2000, Minister for Culture, 21 November 2000 to 10 March 2004, Minister of National Defence, 7 October 2009 to 17 June 2011, Minister of Finance and Deputy Prime Minister, 17 June 2011-. Source: Wikipedia, available at: http://en.wikipedia.org/wiki/Evangelos_Venizelos, date of access: 06.11.2011

signed by 166 university professors from 13 universities on November 9, 2007. Interestingly enough, 98 university professors taught at the Aristotle University of Thessaloniki and the University of Macedonia, namely at higher education institutions located to the constituency of Thessaloniki A where E. Venizelos was elected. It is far from clear that the clientelistic networks at local level overtly and eagerly exhibited their support in this intra-party campaign.

Finally, the issue of legality, that is, the proper application of the rules of the game relating to the selection procedures, as prescribed in the relevant legislation and administrative law, was underestimated and considered as irrelevant by a group of the debate participants in the forum. In effect, this is a view which is unofficially widespread in the academic community in Greece, thus disregarding Luhmann's "legitimacy through procedure"⁶⁸⁴. Within this context, we proceeded to an indicative research on candidates' appeals to the Council of State regarding the legality of the selection procedures in the Greek Universities from 1990 to 2010⁶⁸⁵. The respective decisions show that in the overwhelming majority of cases the university departments failed to comply with the relevant legislation. Under such circumstances, transparency-publicity of the selection procedures through information and communication technologies definitely serves the public interest. Candidates applying for such state positions should be aware that their scientific profile and competences will be exposed and assessed. As for the members of the electoral bodies or judging committees, they should have to think twice before their final judgement. Transparency might facilitate fair assessment, and respect for legality. The Clarity Programme and the new law 4009/2011 on higher education seem to have weakened the validity of the decision 27/2007⁶⁸⁶. However, the publication of the pending joint ministerial decision regulating in detail the issue might probably solve the interpretative enigma of the publicization of the university professors' selection procedures.

⁶⁸⁴ An abstract from O' Mahony and O'Sullivan (2006) on Luhmann's theoretical reflexion on procedures is quoted: "*Procedural law is seen as providing greater levels of justice than political procedures, as law curbs the strength of stronger interaction partners (Bussman, 1998). . . Luhmann's theory has some affinity with legal positivism in viewing legal procedures and rules as formal, logically consistent concepts, principles and systems of regulations with clear rules, ensuring a right way of deciding on a case beyond personal values and manipulation (Roach Anleu, 2000)*".

⁶⁸⁵ The decisions are classified by university. The indication YES refers to decisions where the applicants -the candidates- win the case, whereas the indication NO refers to decisions where the candidates' appeals were rejected. A detailed list of the decisions is set out in the Appendix.

University of Athens: 84% YES, 16% NO, Aristotle University of Thessaloniki: 85% YES, 15% NO, University of Patras: 83% YES, 17% NO, University of Crete: 92% YES, 8% NO, National Technical University of Athens: 100% YES, Athens School of Fine Arts: 100% YES, University of Ioannina: 81% YES, 19% NO, Democritean University of Thrace: 87% YES, 13% NO, Athens University of Economics: 83% YES, 17% NO, Ionian University: 67% YES, 33% NO, University of Thessaly: 85% YES, 15% NO, Agricultural University of Athens: 67% YES, 33% NO, University of the Aegean: 50% YES, 50% NO, University of Macedonia: 62% YES, 38% NO, Technical University of Crete: 60% YES, 40% NO, Panteion University of Political and Social Sciences: 87% YES, 13% NO.

⁶⁸⁶ See Appendix 3, text 3 analysing the impact of the "Clarity" programme and the law 4009/2011 on the validity of the decision 27/2007

SUMMARY

The decision 27/2007 of the Hellenic Data Protection Authority served as a characteristic paradigm of the regulator's effort to hinder the disclosure of freely available public sector information based on the alibi of the protection of personal data. The authority had to judge upon the permissibility of publishing the university professors' selection minutes in the Internet, apart from their publication in a freely accessed special volume explicitly provided for in the law 2083/1992. The case study sought to explore signs of probable collusion between regulator and regulatee. The full text of the decision containing its justificatory basis, additional information on the background of the decision, as well as criticisms, and views expressed on the issue in a newspaper article and an internet forum were used as valuable complementary evidence. These sources proved to be useful methodological tools in order to highlight how the unwillingness of a public sector regulatee, that is, universities, to upload on the internet the university professors' selection minutes, was finally justified by the regulator on the basis of the disproportionate dissemination of personal data, thus completely disregarding the dimension of public interest in the crucial area of higher education.

4. The Greek Ombudsman

a. The effectiveness of the Ombudsman as anti-corruption mechanism

The assessment of the relationship between regulator and regulatee in the institution of the Ombudsman might be a tricky or even useless task for the researcher. Indeed, the nature of the regulatory agency of the Ombudsman, that is, the proposal of new legislation improving the administrative system, recommendations with no legally binding character, and the lack of prosecutorial powers, rather renders redundant any attempt to approach the issue of the de facto independence of the Ombudsman from public administration. Publicity, if effectively used, remains the only mechanism that might do damage to the regulatees' reputation. Nevertheless, the introduction of the institution in Greece, a country with an administrative system characterized by specific pathologies, might make it easier to highlight some aspects of the relationship between regulator and regulatee.

The introductory texts of the annual reports of the Greek Ombudsman expose the principles and values of the institution. In other words, they reflect the regulator's self-perception in relation to the exercise of the regulatory action, and the relationship towards the citizens and public administration. The extrajudicial and mediatory role of the institution is viewed as a mechanism for the improvement of the quality of democracy in the country. In the annual report for the year 2000, the Ombudsman explained that the control strategy of the institution is based on consensus rather than conflict⁶⁸⁷. As for the relationship developed in dispute resolution among the three players, that is, the Ombudsman, public administration, and society, the annual report for the year 2007 states that society and public administration are the two main "interlocutors" of the Ombudsman emphasizing that there is no rivalry between the Ombudsman and public administration⁶⁸⁸.

The measure of publicity, which does not create legal consequences for the regulatee, provides that the Ombudsman may make public the refusal to accept his recommendations, if he considers that this is not sufficiently justified⁶⁸⁹. In the annual report for the year 2004, the Ombudsman views publicity as a sanction of moral nature, a kind of moral motion addressed by the authority. However, the authority clarifies that, in any case, this competence should be exercised with a high sense of responsibility, sparingness, and caution since the practice of denunciation should be avoided. Thus, according to the report, sanction should maintain its extraordinary character that would finally render it increased significance.

Apart from the analysis of the principles of operation, in the annual report for the year 2002, the Greek Ombudsman identified the following diachronic causes of maladministration⁶⁹⁰: i) the low quality of the administrative personnel in public administration, ii) the civil servants' predominant mentality of avoiding the implementation of legislation in case of infringement of the applicable provisions, iii) overregulation, and iv) long delays in resolving individual complaints which in turn facilitate the creation of sources of potential corruption due to the aforementioned

⁶⁸⁷ See Appendix 2, abstract 1.

⁶⁸⁸ See Appendix 2, abstract 2.

⁶⁸⁹ Article 4, par. 6 of the law 3094/2003.

⁶⁹⁰ See Appendix 2, text 1.

causes. It is not clear how these causes of maladministration diachronically rooted in the Greek administrative system could be effectively combatted through a relationship between regulator and regulatee based on the principle of good faith. Indeed, if the institution of the Ombudsman is considered as a state-control mechanism against maladministration and ultimately corruption⁶⁹¹, how could it be finally effective in a conflict-avoiding manner? Taking into consideration the absence of punitive competences, and legally binding decisions, the issue at stake is as to whether the institution exhausts its statutory powers as a deterrent to public administration. Nevertheless, the literature on regulatory agencies rejects the idea of assessing agency independence from the use of sanctions since “there are definitional and methodological difficulties” (Thatcher, 2005). The absence or the rarity of the use of statutory powers with a deterrent character on the part of the regulator inevitably leads to the conclusion that the regulatee complies with law, if no other collateral evidence is available. Thus, high levels of corruption could serve as an indirect proof for the regulator’s reluctance to make full use of his statutory powers.

The annual reports for the years 2001 and 2009 acknowledge the existence of corruption in Greek public administration and make special reference on the issue⁶⁹². As for the content of the concept, it is far from clear that they refer to corruption in public administration under the form of exchanges of economic nature, that is, monetary transactions between citizens and public services (bribery), and mutual services at all levels (clientelism). The annual report for the year 2001 puts emphasis on cases of bribery. The reference of the annual report for the year 2009 on clientelism is general and vague, albeit giving the impression of a thriving phenomenon. The clientelistic aspect of corruption seems to be the most pervasive in public administration, albeit the least promoted and assessed in relation to the bribocentric aspect. Indeed, its consequences might be devastating since it constantly undermines the public interest, whereas administrative action is unavoidably accompanied by the breach of duty. Not incidentally, the Inspector General of Public Administration has supported that corruption in public administration is mainly fuelled by “*the administration’s reliance on governments and party politics*”. In his opinion, regulatory and administrative reforms “*will be ineffective if the involvement of politics in public administration continues*” (Lambropoulou, Papamanolis, Ageli, Bakali, 2008).

These observations on the phenomenon in the country are confirmed by the annual Corruption Perceptions Indexes issued by Transparency International. The Corruption Perceptions Index⁶⁹³ “*measures the levels of public-sector corruption in a country, as seen by country analysts and business people. Questions cover both the administrative and political aspects of corruption, including topics such as the bribery of public officials, kickbacks in public procurement, the embezzlement of public funds, and the strength and effectiveness of anti-corruption efforts*”. Transparency International defines corruption as “*the use of one’s public position for illegitimate private gains*”

⁶⁹¹ Annual Report for the year 2001, p. 13.

⁶⁹² Two characteristic abstracts from the annual reports for the years 2001, and 2009 are quoted in Appendix 2, abstracts 3 and 4.

⁶⁹³ Reservations are expressed by the authors of the index over the scientific basis of the methodology applied for the measurement of corruption since it is based on polls regarding the perception some individuals have about corruption, and not on its real situation which is impossible to be documented (Milionis, 2003).

(Raikos, 2005). The term does not seem to refer only to economic benefits. In other words, it is not purely bribocentric. Corrupt practices may offer immaterial advantages related to the improvement of the legal position of a public official or employee, e.g. appointment to various posts in the public sector or promotion (Raikos, 2003).

Table 1 constitutes a comparative presentation of the CPI scores between Greece and Turkey for the period 1999-2010. Turkey, unlike Greece, is not considered a fully consolidated democracy (Yeşilada, 2007). The law establishing the Ombudsman has yet to be adopted⁶⁹⁴. A draft law has already been submitted to Parliament according to the Turkey 2011 Progress Report drafted by the European Commission. The Table shows that the CPI score for Greece has dramatically deteriorated throughout this period despite the fact that the Ombudsman has been operating in the country since 1998. According to the CPI scores, it could be argued that the position of the two countries were reversed in 1999 and 2010, that is, 3.4 for Turkey in 1999 and 3.8 for Greece in 2010, and 4.9 for Greece in 1999 and 4.4 for Turkey in 2010. The CPI score difference was equally reversed, that is, 1.5 for Greece in 1999 against 0.9 for Turkey in 2010. Indeed, the Annual Report of Transparency International for the year 2003⁶⁹⁵ warned that *“But is not only poor countries where corruption thrives: levels of corruption are worryingly high in European countries such as Greece and Italy . . .”*.

The annual report for the year 2001 confirms two issues. First, the Ombudsman has the competence to refer to the public prosecutor any case where there is tangible evidence that a criminal act has been committed pursuant to article 4, par. 10 of the law 2477/1997 as in force. Therefore, he deals indirectly with cases related to corruption. Second, the Ombudsman admits that corruption is thriving. The question that emerges is whether the Ombudsman effectively used his statutory powers in relation to potential acts of corruption in the period from 1998 to 2010. During this period the authority received 130,712 citizens' complaints⁶⁹⁶, whereas an average of 29,4% of them were filed because they did not fall within the mandate of the office of

⁶⁹⁴ Today's Zaman, an electronic gateway to Turkish daily news, states the following in relation to the draft law on the Ombudsman: *“The ombudsman bill, originally drafted in 1998 during the Bülent Ecevit government, was submitted to Parliament in 1999, but was shelved after the 2002 elections. It was updated in 2004 and passed as part of the European Union reform process that started in 2005. However, former President Ahmet Necdet Sezer vetoed it on July 1, 2006, maintaining that the Constitution does not contain any reference to an ombudsman. The government put a reference into a Constitutional amendment package that was approved in a referendum held on Sept. 12, 2010. After the referendum, the ruling Justice and Development Party (AK Party) reintroduced the ombudsman bill to Parliament once again”*. Article entitled: Turkey looks for its Ombudsman as relevant bill makes it to Parliament, dated February 27, 2011, available at: <http://www.todayszaman.com/news-236778-turkey-looks-for-its-ombudsman-as-relevant-bill-makes-it-to-parliament.html>, date of access: 5.11.2011.

⁶⁹⁵ Annual Report Transparency International 2003, p. 20, available at: http://www.transparency.org/publications/publications/annual_reports/annual_report_2003, date of access: 7.11.2011.

⁶⁹⁶ The annual number of the citizens' complaints is analytically as follows: 1998: 1,430; 1999: 7284, 2000: 10,107; 2001: 11,282; 2002: 11,762; 2003: 10,850, 2004: 10,571, 2005: 10,087; 2006: 9,162, 2007: 10,611; 2008: 10,954; 2009: 13,433; 2010: 13,179. Source: Annual Report for the year 2010.

the Ombudsman⁶⁹⁷. Each annual report dedicates a section to the use of the statutory powers by the authority. According to the official published data in the period from 1998 to 2010 the Ombudsman referred 81 reports⁶⁹⁸ to the competent prosecutor, that is, cases where in the course of investigation of complaints, sufficient indications arose for the commission of criminal acts by functionaries, employees or members of the administration. However, the number of referrals to the competent prosecuting authorities seems inversely proportional to the number of complaints, the general observations of the authority on corruption as described in the introductory texts of the annual reports, and the perceived level of corruption in the country. Interestingly enough, since 2003 the number of referrals has astonishingly diminished in parallel with the rising trend of the perceived level of corruption. Therefore, within a period of eight years 24 reports were referred to the competent prosecutor.

Table 1. Comparing Corruption CPI scores in Greece and Turkey (1999-2010)

Year	No of Countries	Rank-GREECE	Rank-TURKEY	CPI Score GREECE	CPI Score TURKEY	CIP Score difference
1999	85	36	54	4.9	3.4	1.5
2000	99	36	54	4.9	3.6	1.3
2001	91	42	54	4.2	3.6	0.6
2002	102	44	64	4.2	3.2	1
2003	133	50	77	4.3	3.1	1.2
2004	146	49	77	4.3	3.2	1.1
2005	158	47	65	4.3	3.5	0.8
2006	163	54	60	4.4	3.8	0.6
2007	179	56	64	4.6	4.1	0.5
2008	180	57	58	4.7	4.6	0.1
2009	178	71	61	3.8	4.4	0.6
2010	180	78	56	3.5	4.4	0.9

Compilation of data from the Annual Reports of Transparency International (Years 1999-2010)

* The index scores countries on a scale from zero (highly corrupt) to ten (very clean).

9.0 – 10 Very

8.0 – 8.9 Clean

7.0 – 7.9

6.0 – 6.9

5.0 – 5.9

4.0 – 4.9

3.0 – 3.9

2.0 – 2.9 Highly

1.0 – 1.9 Corrupt

The Greek Ombudsman's Special Report on public sector personnel selection procedures exempted from the general recruitment system⁶⁹⁹ is of great interest. Someone might justifiably wonder how such a report might be linked to the

⁶⁹⁷ The annual percentage of the complaints that did not fall within the mandate of the office of the Ombudsman is as follows: 1998:4,7%; 1999: 23,9%; 2000: 29%; 2001: 32,9%; 2002: 39,4%; 2003: 34,9%; 2004: 33,5%; 2005: 31,2%; 2006: 28,8%; 2007: 27,5%; 2008: 25,8%, 2009:31,3%; 2010: 40,2%.

⁶⁹⁸ The annual number of the reports referred to the prosecutorial authorities is analytically as follows: 1998:-; 1999: 3; 2000:12; 2001:30; 2002:12; 2003:8; 2004:7; 2005:1; 2006:2; 2007:3; 2008:2; 2009:0; 2010:1.

⁶⁹⁹ The Special Report on public sector recruitments exempted from the procedures of the Supreme Council for the Selection of Personnel was drafted and issued in 2006. The Report was based on 648 complaints that the authority had investigated during the period 1998-2005. Source: The Official Website of the Ombudsman, available at: http://www.synigoros.gr/reports/eidiki_ek8esh_proslhpseis_ektos_asep.pdf, date of access: 14.11.2011.

reproduction of corrupt practices in public administration. It is far from clear that the adoption of exceptions, as well as regimes of partial and pseudo-jurisdiction of the Supreme Council for the Selection of Personnel perpetuates the clientelistic model of recruitment, which, in turn, constitutes a facet of corruption. Interestingly enough, the independent authority that combats corruption, that is, the Ombudsman, undermines the institutional role of another independent authority, that is, the Supreme Council for the Selection of Personnel. More specifically, the summary of this special report ⁷⁰⁰ supports the view that the overall management of the recruitment procedures should not be under the full jurisdiction of the Supreme Council for the Selection of Personnel since such concentration of control could impede the smooth function of administration ⁷⁰¹.

The argumentation used in the special report is vague and quite puzzling. The Supreme Council for the Selection of Personnel has successfully organized and completed, technically speaking, very demanding selection procedures, among others, the entry examinations for teachers in primary and secondary education with thousands of candidates, or the special entry examinations for air traffic controllers of the civil aviation authority. On the other hand, it is not clear what is meant “by rigidities impeding the smooth function of administration”. As for the system of exceptions, it is considered as a sign of flexibility. Therefore, the Ombudsman fully approves the options of the executive in relation to exceptions, and the regimes of partial and pseudo-jurisdiction in public sector recruitments. These views are in contrast with those expressed by the Supreme Council for the Selection of Personnel which suggested the renegotiation and subsequent limitation of the exceptions and the abolishment of the regimes of partial and pseudo-jurisdiction.

The proposals of the Ombudsman contained in the Special Report do not promote the strengthening of the institutional role of the Supreme Council for the Selection of Personnel, and its recognition as undisputable regulator in the field of recruitments; quite the contrary. The Ombudsman stressed the need for the rationalization of the legal framework for those selection procedures that do not fall under the jurisdiction of the Supreme Council for the Selection of Personnel as well as the adoption of good practices. For this purpose, a series of measures ⁷⁰² were proposed, whereas it was

⁷⁰⁰ Summary and press issue of the Special Report on public sector recruitments exempted from the procedures of the Supreme Council for the Selection of Personnel. Source: The Official Website of the Ombudsman, available at: http://www.synigoros.gr/reports/perilipsi_deltio_tupou_ee_proslhpseis.pdf, date of access: 14.11.2011.

⁷⁰¹ See Appendix 2, abstract 5.

⁷⁰² Within this framework the Ombudsman proposed the following measures as incorporated into the English version of the Annual Report for the Year 2006:

- *The legal framework should be rationalised and minimum specifications should be set in order to ensure objectivity and meritocracy; these specifications should refer to all stages of the procedure for the hiring of personnel in the public sector;*
- *The candidates' assessment criteria should be explicitly and clearly mentioned in the advertisement*
- *The selection proceeding which is formulated by the competent selection committee should refer to the aforementioned set criteria*
- *The results should be publicised in a more efficient way*
- *The examination of appeals should be compulsory*
- *The way works' contracts are formulated should change*
- *Vacant post scheduling should be more flexible*

suggested that the supervisory and coordinating role of the Ministry of the Interior, Public Administration and Decentralisation for these selection procedures should be reinforced. All these measures should be included in a “Personnel Selection Code”⁷⁰³. These views actually reflect the Ombudsman’s accordance with the legislative interventions of the executive that gradually diminished the regulatory field of the Supreme Council for the Selection of Personnel. Thus, the constant weakening of the role of the recruitment regulator has increased the space for the development of clientelistic practices in public sector selection procedures since 1997. However, the law 3812/2009 restored the Supreme Council for the Selection of Personnel to its pedestal, at least symbolically, thus obtaining full jurisdiction over recruitments in the public sector⁷⁰⁴.

Within the framework of the legislative intervention of the authority on a consultative basis, it has systematically avoided proposing specific measures to tackle overregulation, which, in turn, facilitates corruption. As early as 2001, the Mandelkern Group on Better Regulation Final Report⁷⁰⁵ urged member states of the European Union to promote the coherence and clarity of regulations through consolidation⁷⁰⁶ which includes both codification and recasting. Unfortunately, the authority remained silent on the issue instead of putting pressure to the executive through its annual reports.

As for publicity, the Ombudsman does not adopt the policy of denouncing the regulatees as already stated in the annual report for the year 2004. The authority avoids making public the majority of its findings communicated to the competent

- *The supervisory role of the Ministry of the Interior, Public Administration, and Decentralisation should be reinforced*”

⁷⁰³ “All the above measures are included in a “Personnel Selection Code” which will serve as the specifications framework with which all the stages of the employment procedure should abide. This code should include and specify the principles that should be employed, such as the principle of publicity, of equal opportunity to participation, of objectivity, of transparency, of meritocracy”. Source: The Official Website of the Ombudsman, Abstract from the English version of the Annual Report for the Year 2006, p. 71, available at: http://www.synigoros.gr/pdf_01/SYN_AGGL_2006.pdf, date of access: 14.11.2011.

⁷⁰⁴ New categories of personnel that were exempted from the general recruitment system with special provisions fell under the jurisdiction of the Supreme Council for the Selection of Personnel, that is, the permanent personnel of the Greek Parliament, the Presidency of Democracy, and the independent authorities. The exceptions were purely restricted to specific categories of personnel. See Appendix 2, text 2.

⁷⁰⁵ The Mandelkern Group on Better Regulation Final Report was finished in November 2001, and was considered at the European Council in Laeken in December 2001. The main goal of the Report is the improvement of the regulatory quality at both national and EU levels, and thus seeks to promote best practice in seven key areas: policy implementation options, impact assessment, consultation, simplification, access to regulation, structures, and implementation of European regulation.

⁷⁰⁶ The Mandelkern Report defines the concepts as follows: “At European level, the term “official codification” is used to describe the process of repealing a set of acts in one area and replacing them with a single act containing no substantive change to those acts. It thus produces a text with legal effect. In some Member States (for example France), the meaning of codification is closer to the European term recasting – that is the process not only brings together multiple texts into one, but also makes changes to remove out-of-date or nonsensical provisions or correct gaps. It also has the sense of “incorporating into a code” in those countries that have such a legal structure. In this report codification is used in the European sense unless specified otherwise by the context”. Source: The Official Website of the European Commission, available at: http://ec.europa.eu/governance/better_regulation/documents/mandelkern_report.pdf, date of access: 12.11.2011.

Ministries after the refusal of public sector agencies to comply with its recommendations. On the contrary, the total number of these findings should be at least uploaded to the official website of the authority as a deterrent.

b. Cases of regulatory failure: does the Greek Ombudsman effectively fulfill his institutional role?

It seems that another statutory power of the Ombudsman related to the violation of the duty of assistance has never been activated since its adoption in 2004. More specifically, article 12, par. 4 of the law 3242/2004 provides that any public functionary or civil servant who denies cooperation with the Ombudsman with a view to impede or prevent the conduct of an investigation, shall be liable to up to two years imprisonment. Criminal proceedings may be brought about only after the independent authority refers a relevant report to the competent prosecutor.

Interestingly enough, during the research we came across a summary of a finding⁷⁰⁷ concerning the staffing of the Employment Promotion Centres of the Manpower Employment Organization⁷⁰⁸. The summary of the case accompanied by our comments are presented hereafter. The Ombudsman, within the framework of the investigation of citizens' complaints concerning the procedure for the conclusion of work contracts at the Employment Promotion Centres of the Manpower Employment Organisation, requested the opinion no 3273 dated 19.4.2005 of the legal service of the organisation regarding the authenticity of the work contractss⁷⁰⁹. The Ombudsman concluded that following the relevant legislation on the Employment Promotion Centres of the Manpower Employment Organization the conclusion of work contractss was not justified to the extent that the work was part of the cycle of the usual duties of the Organisation. Therefore, the authority requested the granting of the legal opinion that justified the conclusion of these work contracts.

⁷⁰⁷ Article 4, par. 6 of the law 3094/2003 concerning the drafting of a finding reads as follows: "*On completion of the investigation, if required by the nature of the case, the Ombudsman shall draw up a report on the findings to be communicated to the competent Minister and the competent services, and shall mediate in every expedient way to resolve the citizen's problem*".

⁷⁰⁸ Source: The Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/reports/perilipsi_porismatos_oaed_10_06.pdf, date of access: 7.11.2011.

⁷⁰⁹ Pursuant to article 6, par. 1 of the law 2527/1997 on the conclusion of work contracts with natural persons, the joint ministerial decision no 191143/30.8.2005 (Government Gazette vol. B, no 1203, 30.08.2005), issued by the Ministers of the Interior, Public Administration, and Decentralisation, Finance, and Employment and Social Protection, provided for the hiring of 443 individuals on work contracts (233 individuals of University Education and 210 individuals of Secondary Education) at the Employment Promotion Centres of the Manpower Employment Organisation. This joint ministerial decision defined the number of individuals to be employed, the specific work to be executed, the period of time required for the total or partial delivery of the work, the total amount of the contractors' remuneration, the location of the work. It additionally clarified that the work was not part of the cycle of the usual duties of the employees of the Manpower Employment Organisation. Finally, it justified the need for work contracts on the fact that the personnel of the organisation were not sufficient neither qualitatively nor quantitatively to carry out the activities laid down in the joint ministerial decision since the work demanded expertise. As for the use of the term "authenticity", here it implies that the work was not part of the cycle of the usual duties of the employees of the Manpower Employment Organisation, and therefore the working relationship does not conceal fixed and permanent needs of the public sector agency. The relevant agency should provide a justification for the reasons why the work cannot be carried out by its own employees.

On December 22, 2005, the administration of the organisation informed the Ombudsman that it was not entitled to send the said opinion to the authority because *“the opinion no 3273 dated 19.4.2005 of the legal service of the Manpower Employment Organisation “incorporated” into a Ministers’ act⁷¹⁰ pertaining to their political function, does no longer constitute a simple administrative document, which may be subject to the control of the authority of the Ombudsman on the occasion of a citizen’s complaint”*.

The authority with subsequent documents addressed to the administration of the Manpower Employment Organisation, and finally with its finding addressed to the Minister of Employment and Social Protection pointed out that its request for the disclosure of the contested opinion was legal by all means. Thus, the refusal to disclose it was contrary to the provisions of article 5, par. 4 of the law 3094/2003 *“The Ombudsman and other provisions”⁷¹¹*. The organisation never disclosed the relevant legal opinion. The authority considered appropriate that it should remind the Minister of Employment and Social Protection supervising the organisation of the competences of the Ombudsman. Therefore, in its Finding addressed to the Minister, the authority pointed out that it has the mission to mediate between citizens and public services, public law legal entities, local government authorities, and public utilities in order to combat maladministration and safeguard legality. It stressed that under such circumstances, all public services are obliged to facilitate the investigation in every possible way. The Ombudsman constitutes by nature an institution of extrajudicial dispute resolution between citizens and public administration. Therefore, the authority is not only an observatory of any form of maladministration but, above all, it is the protector of legality. It concluded that the Ombudsman is not in conflict with public administration. It is an institution of mediation moving within the framework of securing legality which constitutes the main principle of action in public administration.

The provision on the referral to the competent prosecutor in case of violation of the duty of assistance was in force at the time the authority mediated. The organisation justified its negation on the fact that the legal opinion, as incorporated into the joint ministerial decision, was part of the ministers’ political function. This misleading argumentation was justified on the basis that article 3, par. 2 of the law 3094/2003 provides that *“the Ombudsman shall not have any jurisdiction over government ministers and deputy ministers for acts pertaining to their political function”*. Under this interpretation, all public documents invoked in a ministerial decision are considered as part of the political function, and therefore should be exempted from the jurisdiction of the Ombudsman. However, there is a misunderstanding of basic concepts. Woodrow Wilson in his famous article *“The Study of Administration”* published in 1887, as well as classic management theories, make a distinction

⁷¹⁰ It refers to the joint ministerial decision no 191143/30.8.2005. The said decision simply invokes the number and date of the opinion of the legal service, that is, it does not quote the text.

⁷¹¹ Article 5, par. 4 of the law 3094/2003 reads as follows: *“... The Ombudsman may request public services to provide him with any information, document or other evidence relating to the case, and may examine individuals, conduct on-site investigations and order an expert’s report. During the examination of documents and other evidence, which are at the disposal of public authorities, the fact that they have been classified as secret may not be invoked, unless they concern issues of national defense, state security and the country’s international relations. All public services have an obligation to facilitate the investigation in every possible way. Non-cooperation with an investigation by a public service shall make the object of a special report from the Ombudsman to the competent Minister”*.

between policy formulation (a political function), and policy implementation (an administrative responsibility). Therefore, the joint ministerial decision simply implemented the clauses on work contracts which had been previously formulated by the executive at the stage of policy formulation. On the other hand, it is far from clear that the legal opinion did not fall within the ambit of exceptions, that is, it did not concern issues of national defense, state security, or the country's international relations. The joint ministerial decision provided for the hiring of 443 individuals on work contracts at the Employment Promotion Centres. It seems that the Manpower Employment Organization refused to disclose information on the content of the legal opinion since it could not probably justify the authenticity of these contracts. The organisation impeded the investigation, whereas the authority failed to exhaust its institutional competences by enforcing the provision on the violation of the duty of assistance. Therefore, it is not clear how the Ombudsman served the principle of legality through the mediation process.

The conviction of Greece by the European Court of Human Rights in the case *Tsourlakis v. Greece*⁷¹² is of interest since the Ombudsman seems to have failed to mediate effectively. A short assessment of the Ombudsman's mediation based on parts of the text of the judgement⁷¹³ follows. The applicant was fully deprived of the access to the welfare report of the Society since it had been submitted to the Court of Appeal the same day of the trial. Under such circumstances, there was no deadline in order to apply for a copy. Therefore, the report was accessible neither before nor during the discussion. Similarly, the report was not accessible after the trial because it had been removed from the file since it was discovered that the file did not contain the report. The European Court of Human Rights pointed out that the national legislation in relation to the use of a report drafted in the context of a welfare research is not clear. The applicable articles of the Civil Code make no reference to it. Indeed, the Ombudsman informed⁷¹⁴ the applicant that the welfare report of the Society was not bound by the confidentiality applied in similar reports drafted within the framework of penal proceedings. Furthermore, the Ombudsman noted that the Society was obliged to communicate its welfare report only to the authority that had ordered its drafting, and could not give copies to the parties without the prosecutor's prior consent. The Ombudsman concluded that the said Society could not communicate a copy of the report to the applicant since the latter had not formulated his request through the competent prosecutor.

⁷¹² See Appendix 2, abstract 5 containing the summary of the case as quoted in the press issue issued by the registrar, Chamber Judgement, *Tsourlakis v. Greece* (application no. 50796/07). Source: The Official Website of the European Court of Human Rights, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Tsourlakis%20%7C%20v.%20%7C%20Greece&sessionid=81536890&skin=hudoc-pr-en>, date of access: 9.11.2011.

⁷¹³ First Section, Judgement, *Tsourlakis v. Greece*, Strasbourg, October 15, 2009. Source: The Official Website of the European Court of Human Rights, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Tsourlakis%20%7C%20v.%20%7C%20Greece%20%7C%2050796/07&sessionid=81537453&skin=hudoc-en>, date of access: 9.11.2011

⁷¹⁴ Our information on the content of the Ombudsman's reply to the applicant is exclusively based on the text of the judgement of the European Court of Human Rights.

In this case the Ombudsman handled the applicant's request in the way a common public service could have reacted. In effect, the authority simply avoided to take sides in the issue, thus putting further pressure on the Society, and passed the buck to the competent prosecutor. However, the procedure as dictated by the Ombudsman was misleading. In other words, the prosecutor's prior consent was not a prerequisite for obtaining a copy of the report. In case a public service refuses to disclose a public document upon a citizen's request, the latter may call upon the prosecutor to approve or deny the request. In other words, either the applicant should have directly applied to the prosecutor circumventing the Ombudsman, or the Ombudsman should have applied the provision on the violation of the duty of assistance, if the request was just and the Society insisted on refusing cooperation. The authority failed to support its institutional role on the one hand, and prove its expertise on human rights issues on the other. More specifically, it restricted itself to the interpretation of the vague provisions of the national legal framework, which finally proved to be favourable for the applicant. Nevertheless, it could have additionally tried to persuade the Society that its refusal violated the right to respect for private and family life pursuant to article 8 of the European Convention on Human Rights.

The personnel of the authority should have mediated more constructively, and should have proved its familiarisation with the relevant jurisprudence of the European Court of Human Rights. Indeed, the Court based its argumentation on two of its judgements. Thus, it concluded that the essentially unjustified refusal of the authorities to consent to the publication of the welfare report after the end of the procedure before the Court of Appeal is considered as a disregard of the positive obligation to safeguard the real respect for the applicant's right to his private and family life⁷¹⁵. This could have been fulfilled through an effective and accessible procedure enabling the applicant to have access to all relevant and appropriate information (*Roche v. the United Kingdom*⁷¹⁶). Furthermore, the Court reminded that it is a duty of the authorities to prove the existence of compelling reasons justifying the non-disclosure of a welfare report containing personal information of direct concern to the applicant (*K.H. and Others v. Slovakia*⁷¹⁷). However, in this context, neither the competent authorities nor the government invoked such reasons, whereas the contested report de facto contained such information.

⁷¹⁵ The Court developed the following argumentation in relation to the relevance of the welfare report for the applicant: "*The information contained in the welfare report had been relevant to Mr Tsourlakis' relationship with his son. In that regard, the courts had acknowledged the affection shown by the father towards his child, which was reaffirmed by his persistent efforts to obtain custody. Being informed of any negative findings contained in the report would have enabled the applicant to take them into account in order to improve the relationship. Moreover, Mr Tsourlakis had had a legitimate claim to be informed of the use made of the details he had provided for the purposes of compiling the report*" (Summary of the judgement as formulated in the press issue).

⁷¹⁶ Source: The Official Website of the European Court of Human Rights, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Roche%20%7C%20v.%20%7C%20United%20%7C%20Kingdom&sessionid=81679444&skin=hudoc-en>, date of access: 10.11.2011

⁷¹⁷ Source: The Official Website of the European Court of Human Rights, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=K.H.%20%7C%20Others%20%7C%20v.%20%7C%20Slovakia&sessionid=81679498&skin=hudoc-en>, date of access: 10.11.2011

c. The Greek Ombudsman: servant of two masters?

In Goldoni's play "The servant of two masters" the principal hero, Arlecchino, unsuccessfully tries to fulfill the orders of his two masters, whereas Matthew the Apostle (6:24) states that

No one can serve two masters. Either he will hate the one and love the other, or he will be devoted to the one and despise the other. You cannot serve both God and Money.

In the case of the Greek Ombudsman the conflict-avoiding consensual techniques and the conflict-seeking quest for legality seem to be incompatible. There is direct and indirect evidence that the authority shows unwillingness to exhaust its statutory powers, publicity included, thus failing to act preventively against corruption. It is no coincidence that the effectiveness of the anti-corruption efforts in a country constitutes one of the main parameters measuring the phenomenon. Therefore, the Chair of Transparency International, Huguette Labelle, argued⁷¹⁸ that

Stemming corruption requires strong oversight by parliaments, a well performing judiciary, independent and properly resourced audit and anti-corruption agencies, vigorous law enforcement, transparency in public budgets, revenue and aid flows, as well as space for independent media and a vibrant civil society . . .

The case of the Special Report on public sector recruitments exempted from the procedures of the Supreme Council for the Selection of Personnel is astonishingly revealing of the way the authority supported the survival, reproduction and perpetuation of clientelistic practices in public sector recruitments. The authority legalized the deconstruction of the regulatory space of the competent independent authority in the name of flexibility and best practices. It even proposed the substitution of the recruitment regulator for the reinforcement of the supervisory role of the executive, that is, the Ministry of the Interior, Public Administration and Decentralisation. However, these proposals, clearly undermining the Supreme Council for the Selection of Personnel, were not adopted. On the contrary, the law 3812/2009 moved to the opposite direction, and restored the institutional role of the regulator as arising under the Constitution, albeit at a time when the state started to shrink.

The conviction of Greece in the case *Tsoulakis v. Greece* is revealing in two respects. First, the mediation of the authority was misleading and contradictory. Despite the fact that it judged that the welfare report was not confidential, the applicant could only obtain it upon request to the competent prosecutor. Second, the European Court of Human Rights based its judgement on the provisions of a binding international agreement, that is, article 8 of the European Convention on Human Rights that the authority should have invoked in the first place. This paradigm explicitly shows that the contradictory decisions between Justice and the Ombudsman might hurt the prestige and credibility of the latter. And this probably explains why the common legislator introduced the criterion of subsidiarity, that is, article 3 par. 4 of the law

⁷¹⁸ The Official Website of Transparency International, available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2009/what_s_new_in_cpi_2009, date of access: 10.11.2011.

3094/2003 according to which the Ombudsman “*shall not investigate cases pending before a court or other judicial authority*”. However, the clause directly violates the right of access to justice⁷¹⁹. Furthermore, taking into consideration the prerequisite for the absence of pending lawsuits combined with the short deadlines to submit a lawsuit, a de facto dilemma is posed to the citizen: recourse to Justice or to the Ombudsman? In the annual report for the year 1998, the authority stressed that one of its primary aims is “*reducing the number of cases taken to court and thus lightening the burdens of the judicial system*”. However, this legitimate aim might prove in effect tricky since lightening the caseload of the courts might have implications for the citizens’ interests. In other words, reducing recourse to the courts, that is a conflict-seeking mechanism, probably reduces the number of unfavourable decisions for public administration. Under such circumstances, the citizen cedes the defense of his rights to a rather administration-friendly extrajudicial mechanism.

⁷¹⁹ Article 20 of the Constitution reads as follows: “*Every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law*”.

SUMMARY

In the case of the Greek Ombudsman regulatory failure was detected through the assessment of the regulator's performance as proactive anti-corruption mechanism, on the one hand, and the presentation of two case studies where mediation failed in parallel with the non-activation of the duty of assistance, on the other. The philosophy of the institution as reflected in the annual reports, that is, the strategy of conflict-avoiding consensual techniques combined with the conflict-seeking quest for legality rather undermine the effective regulatory action and seem to be at odds with the effort to combat the phenomenon of widespread maladministration diachronically rooted in the country. Thus, the proactive anti-corruption effectiveness as indicator of agency independence was assessed in three respects. First, the intensity of the use of the statutory powers of a deterrent character, that is, the number of reports the Ombudsman referred to the public prosecutor relating to potential acts of corruption, were compared with the levels of corruption as reflected in the CPI scores issued by Transparency International in the period from 1998-2010. The comparison showed that high levels of corruption were accompanied by the low use of deterrent measures. Second, the Ombudsman's supportive stance towards the system of exemptions from the general recruitment system as expressed in the relevant Special Report for the year 2006 legitimised clientelistic and non-transparent practices facilitating corruption in recruitments, thus offering ideological backing to the legislative initiatives of the political decision-makers. Third, the authority failed to combat overregulation, a key factor enhancing corruption, on a consultative basis through the systematic promotion of a regulatory reform on recasting, simplification, and consolidation of legislation. Finally, the two case studies offer insights into failed mediation, thus showing the unwillingness of the regulator to intervene positively on behalf of the citizens and inevitably come into conflict with the regulatee-public administration.

5. The Hellenic Authority for Communication, Security and Privacy

a. Beyond regulatory failure: When the regulator fails to audit the regulatee in the first place

The Hellenic Authority for Communication Security and Privacy (ADAE) was founded under article 1 of the law 3115/2003. The establishment of the authority arises from the Constitutional demand for the protection of the secrecy of mailing, free correspondence or communication⁷²⁰. The authority also ensures the security of networks and information. As for the concept of privacy of communication, it also refers to the control of the respect of the terms and the procedure of waiving privacy protection rights as foreseen by the law. The authority pertains to the group of regulators auditing public and private sector organisations alike, as is the case with the Hellenic Data Protection Authority. The main public sector regulatee is the Hellenic National Intelligence Service (NIS) pursuant to article 5 of the founding law 3115/2003. Thus, the authority may put in effect scheduled and emergency auditing procedures, ex officio or upon complaint, of installations, equipment, archives, data bases and documents of NIS as well as of other public services, organisations, and enterprises of the wider public sector. It also summons hearings of the administrations, legal representatives and employees of the aforementioned public sector bodies.

According to the annual reports, the authority has never proceeded to any audit regarding NIS or any other public authority under its jurisdiction throughout its period of operation. It remains silent on the issue, and only the annual reports for the years 2005-2008 provide the following information in relation to NIS and other authorities that have the jurisdiction to request a waiver of confidentiality: *“These authorities should define their fields of activity in relation to communications sector and facilitate the audit of the auditing body to which they are subjected”*. Indeed, a series of newspaper articles published in July, 2011⁷²¹ relating to the serious increase of interceptions of communications effectuated by the NIS and the antiterrorism agency of the Greek Police, also confirmed that the authority *“does not carry out controls to the central bases of the interception systems of the NIS and the antiterrorism agency, whereas it audits the land and mobile telephones companies intruding with these systems and “opening lines” to the secret and prosecuting services”*.

⁷²⁰ Article 19, par. 1 and 2 of the Constitution reads as follows: *“1. Secrecy of letters and all other forms of free correspondence or communication shall be absolutely inviolable. The guaranties under which the judicial authority shall not be bound by this secrecy for reasons of national security or for the purpose of investigating especially serious crimes, shall be specified by law. 2. Matters relating to the constitution, the operation and the functions of the independent authority ensuring the secrecy of paragraph 1 shall be specified by law”*.

⁷²¹ Newspaper “To Vima” on-line edition, article entitled “The ears of the NIS listen to everything: the wiretappings of NIS and the antiterrorism agency increased by 70%”, available at: <http://www.tovima.gr/default.aspx?pid=6525&la=1&aid=413331>, date of access: 12.12.2011.

The Greek wiretapping case of 2004-2005, also referred to as the Greek Watergate⁷²², proves the lack of audit and cooperation between regulator and regulatee, that is, the NIS. The scandal was officially revealed in January 2006 despite the fact that members of the government had already been informed of the issue by Vodafone in spring 2005. In the summer of 2006 the special permanent parliamentary committee on institutions and transparency addressed the issue⁷²³. The President of the authority and the heads of the NIS were asked to appear before the parliamentary committee. Opposition MPs accused the secret service of being involved in a cover-up. They claimed that they had been demanding more information from NIS which had conducted its own secret investigation into the case, whereas the then Minister of Public Order had so far turned down these requests. The President of the authority informed the parliamentary committee that NIS had not assisted the authority in its probe. PASOK MPs also accused the competent prosecutor of helping to prevent details of the investigation of NIS being passed on to the authority. The authority drafted its finding in 2007, whereas a second report was submitted to the parliamentary Committee on Institutions and Transparency in 2010. In this report the experts of the authority claimed that there was a series of gaps and “mistakes” in the assessment of the evidence at the initial stage of the investigation of NIS⁷²⁴. It is characteristically stated that *“the finding of NIS comprises general information of technical nature derived from executives of Vodafone”*.

The further publicization of the lack of audit of the NIS by its regulator was triggered by the parliamentary question 260/14/6.12.2011 relating to “cases of monitoring citizens and the protection of the secrecy of communications” submitted by the President of the Parliamentary Group of SYRIZA, Alexis Tsipras, and addressed to the Prime Minister, Loukas Papademos⁷²⁵. Tsipras stated that, during discussions of the special permanent standing committee on Institutions and Transparency on the Annual Report for the year 2010 of the Hellenic Authority for Communication, Security and Privacy, the President of the Authority had argued that there had been

⁷²² The case involved the illegal tapping of 104 mobile phones on the Vodafone Greece network belonging mostly to members of the Greek government, the Prime Minister included, and top ranking civil servants. The illegal software was according to reports installed on the Vodafone Greece network so that calls could be relayed to another number for recording. The taps began sometime near the beginning of August 2004 and were removed in March 2005 without discovering the identity of the perpetrators. One Greek official noted on background that the initial penetration occurred during the run-up to the 2004 Athens Olympics stating: *“it is evident that the wiretaps were organized by foreign intelligence agencies, for security reasons related to the 2004 Olympic Games”*. According to the newspaper “Kathimerini on Sunday” dated August 28, 2011 the prosecutor of appeals stated that the U.S. embassy in Athens was apparently behind the wiretapping.

⁷²³ Source: The electronic English edition of the newspaper Kathimerini. Article entitled “Pressure mounts on NIS to give tapping answers” dated July 27, 2006, available at: http://archive.ekathimerini.com/4dcgi/_w_articles_politics_1_27/07/2006_72565, date of access: 08.06.2009.

⁷²⁴ Source: The electronic edition of the newspaper “To Vima on line”. Article entitled “The wiretapping scandal: Two key-witnesses that were never called upon” dated May 27, 2010, available at: <http://www.tovima.gr/politics/article/?aid=333910>, date of access: 27.05.2010.

⁷²⁵ Minutes of Parliament, 13th Period (of Presidential Parliamentary Democracy), Third Assembly, Session 48, Parliamentary Question 260/14/6.12.2011 submitted by the President of the Parliamentary Group of SYRIZA, Alexis Tsipras and answered by the Minister of the Citizen’s Protection, Christos Papoutsis, due to the absence of the Prime Minister in Brussels, available at: <http://www.hellenicparliament.gr/Praktika/Synedriaseis-Olomeleias>, date of access: 10.12.2011.

identified incidents of wiretapping and violation of the security of communications through primary cross-connection points (PCPs), where small tape recorders had been found. Furthermore, he had also admitted that the authority cannot effectively audit the NIS. Tsipras stated that the NIS remains uncontrollable, and asked the Minister of the Citizen's protection whether he could assure Parliament that i) the Minister's own telephone, as well as those of his colleagues were not tapped, ii) during his mandate the NIS had not purchased illegal equipment, iii) politicians or trade-unionists were not monitored, and iv) the numbers to be monitored following the previous waiver of confidentiality might be falsified. Finally, he proposed that the audit of the NIS should fall under the jurisdiction of an interparty committee as is the Committee on Institutions and Transparency.

The Minister of the Citizen's Protection, Christos Papoutsis (PASOK), replied on the part of the Prime Minister. He stressed that he had the political responsibility and supervision of the NIS, and accused the President of the authority of making general and vague references and allegations regarding massive monitorings. He stated that at the same time the authority had failed to fulfill its mission, that is, to audit the NIS, whereas he was of the opinion that it was the responsibility of the state to check why the authority did not exercise these competences. In relation to wiretapping through primary cross-connection points, he blamed the President of the authority for irresponsible behaviour since he seemed to ignore that in recent years intrusions have been taking place electronically. The Minister also replied that no number falsifications could be effectuated since the procedure is controlled in three different stages: the authority, the prosecutor, and the provider. As for the equipment, he stated that last summer the NIS had purchased a system for locating mobile phones with no possibility of wiretapping. Finally, he informed Parliament that after the President's allegations, the NIS issued an announcement inviting the authority to proceed to an audit and offering any technical assistance required by the auditors. He claimed that until that moment the authority had not reacted to the invitation.

According to the video recorded minutes of the session of the special permanent standing committee on Institutions and Transparency⁷²⁶, during the hearing of the President of the authority, two members of the committee, Prokopis Pavlopoulos (New Democracy), and Ioannis Korantis⁷²⁷ (Popular Orthodox Rally-LAOS) insisted on the issue of the relationship between the authority and the NIS, and the number of audits, regular or extraordinary, exercised by the authority. The President admitted that the authority does not have the possibility to audit NIS, and therefore cannot proceed to its substantial control. He argued that in the past he had supported the view that it would have been better not to have jurisdiction over the audit of NIS since the authority could not exercise it effectively. He pointed out that there was also the opposite view insisting that the authority should undertake this competence, albeit

⁷²⁶ Video recorded minutes of the session of the special permanent committee on Institutions and Transparency on the Annual Report for the year 2010 of the Hellenic Authority for Communication, Security and Privacy, and hearing of its President, held on November 22, 2011, Multimedia Archives of the Hellenic Parliament, available at: <http://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#65eae45b-a755-4d70-89c6-793d0bb134f1>, date of access: 10.12.2011.

⁷²⁷ Honorary Ambassador, he was appointed Commander of the NIS (2004-2009) by the New Democracy Government, and was elected MP in the national elections of 2009 with the party of the extreme right wing party of the "Popular Orthodox Rally". Interestingly enough, an ex-regulatee participates in the parliamentary review of his ex-regulator.

with few means at its disposal, since this was better than nothing. As for the number of audits, he claimed that they had visited the headquarters of NIS two or three times throughout the period of the operation of the authority. He admitted that they had never exercised an audit since January 7, 2009, whereas whenever they had conducted such controls they had found nothing objectionable. He pointed out that he had observed that the equipment of NIS presented to the authority during a relevant control had been considered poor. Ioannis Korantis asked the President of the authority whether he was aware of a series of press reports and websites concerning the supply of wiretapping systems by the NIS⁷²⁸, pointing out that such systems do not simply facilitate the user's location. The President informed the members of the committee that he had no information on the issue, and asked the MP to send him all the relevant documentation he had at his disposal.

The NIS immediately reacted to press reports referring to the briefing of the President of the authority in the permanent special standing committee on Institutions and Transparency, and issued a communication dated November 22, 2011⁷²⁹. The communication stressed that the authority had failed to audit the NIS since January 7, 2009, and asked the authority to fulfill its statutory obligations stressing that it would provide any possible assistance in order to facilitate the auditors' task.

b. A flawed clause regarding the legality of the control of the waiver of the confidentiality of communications

The law 2225/1994 provides for the terms and the procedure for the waiver of confidentiality of communication. The waiving procedure requires a ruling issued by the Council of Appeals or the Council of First Instance, depending on the gravity of the offence under investigation, or a prosecutorial ordinance ratified by a respective ruling. On issues of national security, the ordinance of the Prosecutor of Appeals is simply required. It is also foreseen that the Hellenic Authority for Communication, Security and Privacy is informed, in any case, irrespective of the authority submitting the relevant request for the waiver of confidentiality. Within this framework, the authority controls the terms and the procedure for the waiver of confidentiality, without proceeding to the examination of the content of the judgement of the

⁷²⁸ According to the blog "Greece blognews" and the newspaper "To Vima" more than 8 million euros were spent for the supply of two sophisticated interception systems in 2009 and 2010. One interception system is operating at the Antiterrorism agency of the Greek Police, equally subject to the control of the Hellenic Authority for Communication, Security and Privacy. According to the blog, the executives of the NIS had submitted the request for the supply of these systems when Prokopis Pavlopoulos was appointed Minister of the Interior (Sep. 2007-Oct. 2009, at the time the Ministry of Public Order was merged with the Ministry of the Interior). However, the request was rejected since it was considered that the use of such systems stretch the bounds of legality. They may be used without permitting any substantial control from the relevant judicial authorities or the Hellenic Authority for Communication, Security and Privacy as to whether the monitorings pertain to the numbers or the persons for whom the waiver of confidentiality had been approved. This is achieved simply because these systems may tap communications without leaving any trace. On the contrary, the monitorings effectuated by the older system were recorded indelibly both to the central system installed in the headquarters of the NIS as well as to the mobile companies to which this system is connected with straight lines. Sources: Greece blognews, available at: http://kostasxan.blogspot.com/2011/11/blog-post_8936.html, date of access: 11.12.2011, Newspaper "To Vima" on-line edition, article entitled "The ears of the NIS listen to everything: the wiretappings of the NIS and the antiterrorism agency increased by 70%", available at: <http://www.tovima.gr/default.aspx?pid=6525&la=1&aid=413331>, date of access: 12.12.2011.

⁷²⁹ Appendix 4, text 1 contains the full text of the communication of the NIS.

competent judicial authorities. In all its annual reports for the period 2004-2010, the authority considers that there should be a legislative regulation complementing its competence on the issue. It supports the view that the current clause, in the absence of legal consequences in case a violation of the terms and the procedure for the waiver of confidentiality are ascertained, remains flawed. Therefore, it proposes that in cases of such infringements, the authority should have the competence to ask from the materially responsible prosecutor (Appeals or Supreme Court) the exercise of legal remedies (appeal, reversal) against Rulings for the waiver of confidentiality. In the case of a prosecutorial ordinance issued for reasons of national security, the Prosecutor of the Supreme Court should be responsible, upon request of the authority. We fully acknowledge that this gap in the legislation is related to a special kind of sanctions under the form of legal remedies, which in turn, does not serve as an appropriate tool for the assessment of agency independence. However, it is indicative of the will of the political decision-makers to hinder regulatory action in the first place, thus leaving the regulatees in peace.

Table 2 shows the number of Ordinances and Rulings regarding the waiver of confidentiality communicated to the authority during the period 2005-2010, whereas there is an impressive increase in their number in the years 2009 and 2010. According to the annual reports for the period 2004-2010, the authority was sending each year letters to the Prosecutor of the Supreme Court noting i) omissions of the judicial and prosecutorial authorities regarding the communication of rulings and ordinances to the authority, and ii) the need for compliance with the procedure for the waiver of confidentiality, as in force, in order to safeguard full and indispensable implementation of the provisions of the current legislation regarding the management of relevant cases. In other words, the authority asked for the assistance and intervention of the Prosecutor of the Supreme Court since a number of ordinances and rulings never reached the authority, whereas there were cases where the procedure for the waiver of the confidentiality of communications was violated. Under such circumstances, it seems that the authority justifiably suggests a legislative regulation regarding the measure of legal consequences concerning the violation of the waiving procedure. Thus, the statutory control of the legality of the procedure would become effective.

Table 2 Communication of Ordinances and Rulings
regarding the waiver of the confidentiality of communications, 2005-2010

Year	Ordinances	Rulings
2005	55	144
2006	161	309
2007	214	411
2008	302	607
2009	1,061	970
2010	2,231	1,169

Source: The Annual Report for the year 2010

Interestingly enough, during the hearing of the President of the authority at the permanent special standing committee on Institutions and Transparency, the MP Theodora Tzakri (PASOK) expressed her reservations on this legislative proposal.

She supported that the arrangement would create more problems than it was supposed to solve. She stressed that the rulings are issued with extremely rapid procedures, and aim to serve immediate needs of the investigating authorities. She finally pointed out that the judicial courts are exclusively competent to judge over the rulings, and therefore the involvement of the authority constitutes involvement in the work of justice. However, the MP's argumentation seems to be based on a misinterpretation of the purpose of the proposed arrangement. In other words, there is confusion between the concepts of the control of the legality of the procedure, and the control of the content of the rulings and ordinances. It would have been unwise on the part of the authority to suggest a measure directly intervening in the work of justice. It simply proposes an arrangement deemed necessary for the completion of the control of the legality of the procedure, which, otherwise, remains useless.

c. Mission unaccomplished

In recent years, the fight against crime and terrorism has inevitably permitted governments to abuse privacy rights as a counterbalance to security. It has also been argued that safeguarding security serves as a convenient excuse for governments to exercise their power. Within this context, the national regulators responsible for the protection of the confidentiality of communications have to face powerful regulatees, that is, the police and intelligence services. Not incidentally, the hearing of the President of the Hellenic Authority for Communication, Security and Privacy during the parliamentary review on the annual report for the year 2010 provoked tremendous reaction on the part of the regulatee, the NIS. Moreover, a parliamentary question was submitted, and the issue attracted further publicity. The NIS and the Minister of the Citizens' protection criticized the authority for not fulfilling its statutory competences, whereas at the same time it had proceeded to allegations regarding abuses of communication interceptions.

However, the President's proposal that the audit of the NIS should have been exempted from the field of regulation escaped attention. The regulator actually admitted that oversight was impossible to achieve, whereas his reference to the view that insisted on the delegation of this competence to the authority, even weakly exercised, rather revealed the political decision-makers' will for the symbolic use of politics. Indeed, privacy laws arise from the constitutional dicta, as well as binding international treaties on human rights, that is, article 12 of the Universal Declaration of Human Rights⁷³⁰, and article 8 of the European Convention on Human Rights⁷³¹. Therefore, the respect for human rights and the principles of democratic governance inevitably imposed the inclusion of this competence in the regulatory field of the

⁷³⁰ Article 12 of the Universal Declaration for Human Rights reads as follows: "*No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks*".

⁷³¹ Article 8 of the European Convention on Human Rights reads as follows: "*1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others*".

authority. The regulator's correspondence with the Prosecutor of the Supreme Court also reveals omissions, and violations of the procedure for the waiver of the confidentiality of communications⁷³². The absence of legal remedies against such infringements leads the control of the legality of the procedure to a deadlock. The MP's rejection of the proposed arrangement on the issue, albeit ostensibly based on a misunderstanding, shows the reluctance of the political decision-makers to concede any further substantial power that could impede the circumvention of the legality of the waiving procedure.

However, it seems that the Greek regulator's weakness to audit the NIS is not an exception in relation to the respective European national regulators. Privacy International⁷³³, the Electronic Privacy Information Center (EPIC) and the Center for Media and Communications Studies (CMCS), conducted the study "European Privacy and Human Rights (EPHR) 2010", funded by the European Commission's Special Programme "Fundamental Rights and Citizenship," 2007-2013⁷³⁴. According to Privacy International the study "*investigates the European landscape of national privacy/data protection laws and regulations as well as any other laws or recent factual developments with and impact on privacy. The study consists of 33 targeted reports, an overview presenting a comparative legal and policy analysis of main privacy topics and a privacy ranking⁷³⁵ for all the countries surveyed*". All categories, that is, the seventeen main privacy topics⁷³⁶, were measured out of 10 points. The report contains the following general assessment for Greece:

A rich and controversial history of privacy, with whole-scale abuse, and political upheaval. While many promising developments occurred in the mid 2000s, since then the Government has repeatedly failed to implement necessary safeguards, and so surveillance continues.

⁷³² The newspaper article "*The ears of the NIS listen to everything: the wiretappings of the NIS and the antiterrorism agency increased by 70%*" notes that "Competent public officials state that '*the great danger arises from the procedure of the correspondence regarding the requests submitted to the Office of the Prosecutor of Appeals. However, executives from the NIS and the Antiterrorism agency contend that 'the relevant procedure is transparent, since it is controlled by the competent prosecutors supervising the two services*'".

⁷³³ Privacy International is a non-profit private limited company.

⁷³⁴ Source: The Official Website of Privacy International, available at: <https://www.privacyinternational.org/ephr>, date of access: 14.12.2011.

⁷³⁵ Privacy International explains the selection of the methodological option of ratings against rankings as follows: "We have also abandoned the idea of a 'ranking', where one country is awarded the 'worst' mark. We believe that there is some merit to this practice, but we felt that we would find the results more interesting to see the classifications rather than the number figures. That is, if country A had an average of 4.2 and country B had an average of 4.5, we are unsure if it would be fair to say that country A was 'worst' out of this list. Similarly, we would be cautious to say that country B was 'best'. Rather it is more valuable to see the gradations in each category, and the similarities and disparities between countries when they are categorised by both criteria and average results. As such, we felt that a 'ratings' scheme would be more appropriate".

⁷³⁶ The main privacy topics were: i) democratic safeguards, ii) constitutional protection, iii) statutory protection, iv) privacy enforcement, v) leadership, vi) ID cards and biometrics, vii) data-sharing, viii) visual surveillance, ix) communications interception, x) communications data retention, xi) government access to data, xii) workplace monitoring, xiii) medical, xiv) financial, xv) border, xvi) intelligence and surveillance oversight, and xvii) DNA.

The categories of communications interception⁷³⁷, and intelligence and surveillance oversight⁷³⁸ are of great interest. Table 3 shows their ratings in 33 countries. Those countries pertaining to the group of ratings ranging from 0.0 to 1.7 are classified as cases of “endemic surveillance”. Greece figures among cases of “endemic surveillance” in the category of communications interception. Moreover, most countries, Greece included, present low ratings in the category of intelligence and surveillance oversight, whereas no data are available for seven countries. Thus, the large number of “endemic surveillance” cases in most European countries rather proves the unwillingness of the governments to facilitate the oversight of police and state security agencies.

Table 3 European Privacy Ratings in the categories of i) Communications Interception and ii) Intelligence and Surveillance Oversight

Country	Communications Interception	Intelligence and Surveillance Oversight	Country	Communications Interception	Intelligence and Surveillance Oversight
Austria	2.5	0.0	Luxembourg	5.0	-
Belgium	1.3	2.5	Malta	1.7	-
Bulgaria	1.3	2.5	Netherlands	1.3	1.3
Cyprus	5.0	-	Poland	1.3	1.7
Czech Republic	3.3	2.5	Portugal	-	-
Denmark	2.5	2.5	Romania	5.0	3.3
Estonia	3.3	2.5	Slovakia	3.3	3.3
Finland	5.0	-	Slovenia	3.3	1.7
France	3.3	1.7	Spain	1.7	-
Germany	1.3	1.7	Sweden	2.5	1.3
Greece	1.3	1.7	UK	1.7	1.7
Hungary	1.3	1.7	NON EU		
Ireland	1.7	-	Croatia	2.5	1.7
Italy	1.3	1.7	FYROM	1.7	1.7
Latvia	1.7	3.3	Norway	3.8	5.0
Lithuania	1.7	1.7	Switzerland	3.3	1.7
			Turkey	2.5	0.0

Source: Privacy International, European Privacy and Human Rights Report 2010

⁷³⁷ See Appendix 4, text 2 containing a summary of the content and accompanying questionnaire on the category communications interception according to Privacy International.

⁷³⁸ See Appendix 4, text 3 containing a summary of the content and accompanying questionnaire on the category intelligence and surveillance oversight according to Privacy International.

SUMMARY

The Hellenic Authority for Communication, Security and Privacy is a characteristic case of regulatory inertia, that is, a case where the regulator fails to audit its main public sector regulatee, in this case, the National Intelligence Service. Furthermore, a flawed legislative regulation, that is, the institutional design itself, *ex ante* hinders regulatory action, thus leading once more to regulatory inertia. More specifically, the authority is blocked from having recourse to any legal remedies when exercising the control of the legality of the rulings and ordinances relating to the terms and conditions of the procedure for the waiver of the confidentiality of communications issued upon request of the respective public sector regulatees (NIS, the antiterrorism agency of the Greek Police etc). The annual reports, the minutes of parliament, and publicity in the media served as a source of information to describe the inexistent relationship between regulator and regulatee, as well as the reluctance of the political decision-makers to settle the issue of the lack of legal remedies. However, it seems that Greece is not an outlier regarding regulatory inertia, since governments in most European countries show unwillingness to facilitate the oversight of police and state security agencies.

6. Conclusion

The qualitative assessment of the external at arm's length relationship attempted to detect trends in the regulators' behaviour towards their regulatees, namely the coinciding diptych public administration-political decision-makers. The term "trend" is used in order to identify conflict-avoiding, inertia included, or conflict-seeking strategies adopted by the regulators either while interacting with the regulatees or on own initiative. In other words, the issue at stake is whether the regulatory action satisfies the regulatee's interests. In cases where the regulatory action clearly fails to serve the public interest, and therefore coincides with the regulatees' interests, regulatory failure occurs. Different approaches and tools were applied for each constitutional independent authority in order to highlight indicative instances of the regulatory behaviour.

In the case of the Supreme Council for the Selection of Personnel, the application of the simulative control of the constitutionality of laws came to test the regulator's willingness to act on an own initiative basis. In other words, the weakness of the authority to intervene in its own regulatory field constitutes a case of regulatory failure. Indeed, a series of provisions, either relating to the broadness of the jurisdiction of the authority over public sector recruitments or the terms of the recruitment procedure itself, clearly violated the constitutional principles of equality and meritocracy. However, the authority restricted itself to the simple observation of these distortions through its annual reports. Thus, it failed to block the will of the political decision-makers that partly managed to dominate over their alter ego, that is, public administration, through legislative manipulation. Ironically, it was the law 3812/2009 that came to regulate the injustices of the public sector recruitment system, and restore the regulator's prestige at a time when the public sector was starting to shrink.

In the case of the Greek Ombudsman, the inherent conceptual contradictions guiding regulatory action and their introduction into an administrative system characterized by specific pathologies might make the institution more vulnerable to regulatory failure. Thus, the high levels of corruption in the country, as reflected in the CPI scores issued by Transparency International, combined with the Ombudsman's low use of statutory powers of a deterrent character probably reveal the regulator's unwillingness to disturb the regulatees. Furthermore, signs of ideological convergence with the political decision-makers on certain aspects of the public sector recruitment system facilitating clientelistic practices, the lack of a systematic consultative intervention against overregulation, and the avoidance of a broad publicity regarding the Ombudsman's findings are not persuasive of an effective proactive anti-corruption effort. The case of the Manpower Employment Organisation as well as the conviction of Greece in the case *Tsourlakis v. Greece*, serve as paradigms of ineffective mediation, and failure to activate the statutory power regarding the violation of the duty of assistance.

In the case of the Hellenic Data Protection Authority, the decision 27/2007 supported the position of the Greek academic community, and hindered the uploading of the university professors' selection minutes on the internet. Despite the explicit will of the common legislator to make universities proceed to own-initiative publicity through the publication of the selection minutes in a special volume, the authority considered that uploading them on the internet constituted a disproportionate dissemination of

personal data. The decision could be characterized as biased in many respects. It presents weaknesses, not only linked to its content per se but also to external factors. The creation of a conflict of interest of situation, the unjustified long delay in the publication of the decision, the ignorance of the Italian paradigm may cause doubts to arise in relation to the impartiality of the decision. At the same time, the university professors' selection procedures seem to be traumatized to a large extent by cases of nepotism, signs of involvement of party politics, and the violation of the legality of the procedures themselves. It is far from clear that the regulator struggled to protect the regulatees' interests, thus jeopardizing the public interest.

The case of the Hellenic Authority for Communication, Security and Privacy is an extreme case of regulatory inertia. The regulator publicly admitted his weakness to audit the main public sector regulatee, that is, the National Intelligence Service, and stated that he had proposed that the relevant competence should not have been delegated to the authority in the first place. The minutes of Parliament and the extended publicity present the peculiar hide-and-seek between the regulator, the regulatee, and the political decision-makers. However, the nature of the regulatee, and the relevant European experience on the issue, prove that the inertia of the authority is not the exception to the rule.

To sum up, the regulators' behaviour, either on own initiative or upon request, seems to be conflict-avoiding in relation to the regulatees. Therefore, the regulatory action is cautious, and gives the impression of not exceeding the limits of what could be considered as acceptable by the regulatees, namely public administration-political decision-makers.

Chapter 5

The External Accountability Relationship: The Citizens and the Constitutional Independent Authorities

Immunity Arrangements Restricting the de facto Independence from Public Administration through the Violation of Human Rights

Introduction

In recent years, cases relating to the waiver of state leaders' immunity or the overruling of immunity provisions in legislation as unconstitutional attracted international media coverage⁷³⁹, and provoked debate in literature regarding immunity regimes (Altman, 2002; Evans, 2006). Moreover, such protective legal frameworks for politicians or other high-ranking public officials or servants at national or supranational level have, interestingly enough, established a convergence against immunity arrangements among different actors, that is, citizens' political movements⁷⁴⁰ and business people⁷⁴¹ that traditionally represent opposing interest groups. Transparency International, an international rating organisation⁷⁴² (Scott, 2002), pinpoints that "*immunity laws are being strengthened in many parts of the world, making it harder to prosecute political corruption*"⁷⁴³.

These paradigms, although pertaining to different immunity arrangements, serve as a starting point for the discussion that follows. The purpose of this unit is to introduce, analyse and comment on a new generation of immunity provisions in Greek legislation, their impact on the concept of administrative responsibility and their implications for the quality of democracy. More specifically, these provisions vest the members of the five constitutional independent authorities with almost absolute

⁷³⁹ We refer to the cases of Augusto Pinochet, Ariel Sharon, and Silvio Berlusconi.

⁷⁴⁰ According to their website Newropeans is the first trans-European political movement which has run for European elections in 2009 in several EU Member States with the same name, the same programme and the same objective. The first of their 16 proposals for rendering the European Union more democratic and meeting the challenges of the XXIst Century refers to the maintenance of the principle of equality of all European citizens before the law by eliminating the legal immunity of European officials. Available at: <http://www.newropeans.eu/spip.php?article=68&lang=en>, 02.01.2010

⁷⁴¹ The President of the Federation of Industries of Thessaly and Central Greece, E. Eulogimenos, in his speeches at the Annual Regular Assemblies of the Management Board that took place in Volos on March 17th 2007 and May 15th 2009, emphasized the importance of equality in the relationship between the State and the Citizen (i.e., the principal of equality before the law), and proposed that the inviolability of parliamentarians should be abolished and measures regarding the personal responsibility of the members of the independent authorities and the agents effecting controls should be introduced. Source: The bi-monthly magazine of the Federation "Bulletin", vol. March-April 2007, p. 11, available at: http://www.sbtke.gr/index.php?option=com_content&view=article&id=73%3A-q&q&catid=16%3A-q&Itemid=97&lang=el, date of access: 02.01.2010.

⁷⁴² Scott (2002) classifies Transparency International to "*the group of private regulators that operate both nationally and internationally, lack a legal mandate and yet have the capacity to exercise considerable power in constraining governments and public agencies*".

⁷⁴³ Transparency International Annual Report 2004, p. 6, available at: http://www.transparency.org/publications/publications/annual_reports/annual_report_2004, date of access: 02.01.2010.

immunity. They foresee that *“they are not held responsible, prosecuted or subjected to inquiry for any opinion expressed or act committed in the discharge of their duties. Prosecution is permissible only following an accusation for slander, libel or breach of confidentiality”*⁷⁴⁴. Such legal arrangements have rarely been discussed in regulatory literature. Furthermore, the issue of the quality of democracy revolves around whether immunity arrangements violate individuals’ fundamental rights, and simultaneously reduce the de facto independence of the Greek constitutional independent authorities regulating government from public administration. Within this context, we will attempt to question and challenge the prevailing view that immunity arrangements for high- ranking public functionaries at the top of bureaucratic hierarchies, as is the case with constitutional independent authorities regulating government in Greece, are a prerequisite for the independent function of these agencies. In other words, according to the functional necessity rationale, it would have been impossible for these public officials to fulfil their functions without such privileges that protect them from political control. However, the justificatory basis for the introduction of these provisions in the Greek legal order seems to have been based on a mixture of inexact and vague theoretical grounds.

In our opinion, immunity provisions through the impunity they guarantee to those enjoying them decisively affect their day-to-day regulatory action towards citizens, their own personnel, and public administration. Thus, the core mission of these authorities is to shield citizens from the violation of their human rights by public administration, that is, to limit the authoritarian stance of the state. We argue that if citizens are deprived of their right of access to court against those who are supposed to protect them, due to the lack of legal responsibility, the de facto independence of these authorities towards public administration is inevitably restricted.

Our analysis proceeds as follows: First, we present the legal framework regarding the legal responsibility of civil servants in Greece and the relevant jurisprudence. Then, we comment on the introduction of immunity provisions for the high-ranking public functionaries of the five constitutional independent authorities, and on the relevant discussions in parliament. Next, a brief history is presented of the evolution of the ombudsman and the main immunity regimes in the institution since it appears that the French version served as a model for the Greek Ombudsman and became the justificatory basis for the extension of immunity provisions to the other constitutional independent authorities in Greece. A fourth step concerns a discussion on the sources of inspiration for the immunity regime in the institution of the ombudsman, that is, parliamentary immunity, immunity enjoyed by the officials of international organisations, theoretical approaches, and legal opinions. Then, we propose a typology of immunity in the institution of the ombudsman derived from the study of relevant provisions in the legislation of Council of Europe member states. Finally, we assess whether the regulatory agency of these authorities justifies the measure, on the one hand, and we discuss the relationship between expertise and legal responsibility, on the other. We conclude that the extension of immunity provisions beyond *“the degree necessary for a democratic society”*⁷⁴⁵ traumatizes the polity and citizens’ trust

⁷⁴⁴ The laws 2477 /1997, 3094/2003 and 3613/2007.

⁷⁴⁵ The part of the sentence in quotation marks is a citation from Principle 6 of Resolution (97)24 of the Council of Europe Committee of Ministers on the Twenty Guiding Principles for the Fight against Corruption: ‘to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society’. Available at:

in government. In the Greek case, immunity provisions for the members of the five constitutional independent authorities restrict the de facto independence of these agencies from public administration through the violation of human rights.

The legal responsibility of civil servants in Greece

Before proceeding to the legal framework regulating the legal responsibility of civil servants in Greece, we should specify what the term responsibility implies in a bureaucratic context. It implies more than mere accountability of bureaucrats to “externally imposed institutional and statutory arrangements” (Gregory, 2007) which coincides with Mosher’s (1968) concept of objective responsibility. Odegard (1954) identifies multiple loyalties and responsibilities for the bureaucrat⁷⁴⁶. According to this classification, *legal responsibility* to the courts (both administrative and judicial) refers to cases where “he [the bureaucrat] transgresses the rights of citizens by abusing or exceeding his powers”.

In Greece the competences and responsibilities of civil servants are regulated by administrative law –the Civil Servants’ Code- and an important part of the criminal code. Three types of liabilities exist: disciplinary, criminal, and civil (patrimonial). Disciplinary liability is imposed on civil servants through internal proceedings⁷⁴⁷. The particular breaches which may give rise to the initiation of disciplinary proceedings pertain, among others, to the breach of duty pursuant to the Criminal Law, improper conduct or unjustified abstention from service. The range of disciplinary sanctions that may be imposed vary from a reprimand in writing, or a fine of up to three (3) months of salaries to temporary or final dismissal. Disciplinary liability does not seem to have a deterrent effect in practice since public services are reluctant to initiate disciplinary investigation or, when they commence such a procedure, it proves to be deficient⁷⁴⁸. The law 4057/2012 -promulgated after the outbreak of the Greek debt crisis- amended the provisions of the Civil Servants’ Code regarding the disciplinary liability, and attempted to combat the deficiencies arising from the content and implementation of the previous legal framework.

The twelfth chapter of the Greek Penal Code entitled “crimes concerning the public service”⁷⁴⁹ describes the criminal offences that can be committed only by civil servants. Such crimes may pertain, among others, to bribery, abuse of power, falsification of documents, disclosure of official secrets or generally violation of duties.

The civil liability of the Greek State and its agents

The civil liability of the Greek State in tort caused by the legal actions of its agents is regulated by the provisions of the article 105 of the Introductory Law to the Greek

[http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20\(97\)%2024%20COE.pdf](http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20(97)%2024%20COE.pdf), date of access: 02.01.2010.

⁷⁴⁶ These responsibilities are i) political (vicarious and indirect), ii) administrative, iii) legal, iv) professional, v) moral and vi) responsibility to his own soul (self-respect).

⁷⁴⁷ Civil Servants’ Code (Law 3528/2007, art. 122-146).

⁷⁴⁸ Annual Reports of the Greek Ombudsman and Reports of the Inspector General of Public Administration.

⁷⁴⁹ Articles 235-263a of the Greek Penal Code.

Civil Code⁷⁵⁰. In its initial version, it recognized a joint liability of the civil servants and the State. The legislator made no distinction regarding the gravity of the offences (i.e., whether the public servant acted intentionally or under ordinary or gross negligence in a manner that was grossly negligent or intentional,) since it was considered purposeless. This law introduced a double liability mechanism for the civil servants: one towards the State for direct or indirect damages, and one towards the citizens who could sue personally the agent for the damages suffered because of the employee's illegal conduct. The regulation set forth the social relevance of civil liability. Apart from the compensation of the victim, it could serve as a deterrence measure. Consequently, civil servants would become more diligent in the performance of their duties.

The extent of the civil liability of state agents after the introduction of the relevant clauses in the Civil Servant's Code

The first Civil Servants' Code was promulgated in 1951 (law 1811/1951), establishing not only common and uniform rules, but also ensuring some fundamental guarantees against the arbitrary interference by the administration in the employment position of the civil servants. The law was codified in 1977 (Presidential Decree 611/1977), whereas a new Civil Servants' Code was introduced in 1999 (Law 2683/1999), and amended in 2007 (Law 3528/2007). In the law of 1951, article 57, which coincides with article 38 of the law of 2007, currently in force, redefined the extent of the civil liability of the organs of the state, thus amending the second verse of article 105 of the Introductory Law. An indulgent and protective regulation regarding the civil servants' civil liability was enacted, thus restricting the scope of article 105 only to the direct liability of the state. Under the regime of vicarious liability⁷⁵¹, which was introduced, the state had to compensate people for the damages caused by its agents⁷⁵². Civil servants may not be sued personally for errors they commit in the performance of their duties. However, in case the state compensates the injured party, it has a right of recourse against the civil servant only when the agent acted in a manner that was grossly negligent or intentional. Thus, civil liability is limited to damages against the state's assets and the positive damages suffered by the injured third parties.

The civil servants' personal civil liability against third parties is provided for in two cases. First, pursuant to article 11 of law 3242/2004, the civil servants owe to comply with final court decisions. In case they fail to comply, the provisions of articles 105 and 106 of the Introductory Law to the Greek Civil Code are implemented, only after the activation of disciplinary measures against them⁷⁵³. The legislator, taking into consideration the relevant constitutional requirement, establishes the regime of direct

⁷⁵⁰ Compulsory Law 2783/1941.

⁷⁵¹ According to this system, the administration compensates the third party's damages as a surrogate (vicarious liability of the administration). SIGMA, Support for Improvement in Governance and Management. A joint initiative of the OECD and the European Union, principally financed by the EU, Francisco Cardona, January 2003, <http://www.sigmaxweb.org/dataoecd/61/6/37890790.pdf>, date of access: 02.01.2010

⁷⁵² In most legal orders as well as in that of the European Union (see article 340 of the Treaty on the Functioning of the European Union, and Regulation No 31/1962 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community) no direct civil liability is provided for civil servants.

⁷⁵³ Art. 5, par. 1 and 2 of the law 3068/2002.

and personal civil liability provided that the non-compliance with court decisions has been previously disciplinary judged. Yet the precondition of a disciplinary decision weakens the effectiveness of the measure since, in practice, internal proceedings may delay or may never take place⁷⁵⁴. Within this context, it could be argued that the said regulation lacks legal realism in the sense that it is of doubtful effectiveness. Second, article 3 of the law 2957/2001 ratifying the Council of Europe's Civil Law Convention on Corruption established the civil servants' and public functionaries' personal civil liability towards third parties in case they commit an act of corruption as defined in article 2 of the Convention⁷⁵⁵.

The decision 3/2009 of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)

The decision 3/2009 of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos) concerning the civil liability of high-ranking public functionaries⁷⁵⁶ is of special interest since its rationale reverses previous decisions of the same court⁷⁵⁷. Furthermore, it links civil liability with the expertise of high-ranking public functionaries. More specifically, University Professors' working status is governed by special provisions⁷⁵⁸, and they are considered public functionaries and not mere civil servants. By the time the specific action took place in 1995, these special provisions had neither provided for the civil liability of University Professors, nor made any reference that the provisions of the Civil Servants' Code⁷⁵⁹ would have to be applied. Furthermore, the court argues that the principle of equality before the law (i.e., "All Greeks are equal before the law")⁷⁶⁰ also implies the equality of the law before them, in the sense that the legislator, when regulating substantially similar things, relations or situations relating to various categories of persons, is bound not to introduce unjustified exemptions or discriminations, thus regulating the said situations dissimilarly, unless this dissimilar regulation is imposed by rationales having to do with the broader social or public interest, which in turn are tested before the courts⁷⁶¹. Consequently, the law may regulate in a different way for similar relations or situations for persons pertaining to different categories of functionaries or servants or employees, and this discrimination is justified without violating the principle of equality.

In this case the university professor acted not in his capacity as a mere civil servant, that is a hospital doctor, but he bore the capacity of a high-ranking public functionary

⁷⁵⁴ Despite the fact that the provisions foresee that judges monitor the procedure, this might become a rather ineffective means due to judges' workload.

⁷⁵⁵ Article 2 of the Civil Law Convention on Corruption reads as follows: "*For the purpose of this Convention, "corruption" means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, - the undue advantage or the prospect thereof*". Source: The Official Website of the Council of Europe, available at: <http://conventions.coe.int/Treaty/en/Treaties/html/174.htm>, date of access: 24.03.2012.

⁷⁵⁶ In this case a university professor working also as a doctor at the National Health System.

⁷⁵⁷ Hellenic Supreme Court of Civil and Penal Law (Areios Pagos), Decisions 1/1969, 1780/1989.

⁷⁵⁸ Law 1268/1982.

⁷⁵⁹ Article 85 par. 1 of the Codified Civil Servants' Code in force from 15.7.1977 until 9.4.1999 (Presidential Decree 611/1977).

⁷⁶⁰ Art. 4, par. 1 of the Constitution.

⁷⁶¹ See also decisions of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos) in Plenary Session, 11/2008, 31/2007, 3/2006 and 38/2005.

(i.e., university professor) with high prestige and an increased responsibility compared to that of the mere civil servant, stemming exactly from this capacity. In the performance of his duties as a hospital doctor, his university capacity still existed and was not degraded to that of a mere doctor. In this sense he had to prove his outstanding knowledge -as a university professor- of his science and his art he is supposed to have by taking the personal responsibility for faultless performance. Yet there would have been a discrimination if, among doctors with different qualifications, a privileged regulation concerning their responsibility in service existed only for those having higher qualifications. Conversely, if the favourable regulation of the indirect civil liability of hospital doctors were applicable to university professors working also as doctors in hospitals, the extension of this privileged regulation to higher-ranking public functionaries, that is, to a different category of persons, would lead to the inequality of the law before the citizens, something that is unacceptable under the said provision of the Constitution. The rationale of the decision is relevant since it acknowledged direct civil liability for public functionaries due to their scientific and/or technical expertise. However, the legislator has already covered the gap in legislation through the amendment of article 2 of the Civil Servants' Code that is in force since 2007⁷⁶². In other words, all categories of civil servants and public functionaries are henceforth subject to the said article, thus avoiding direct civil liability.

Indeed, a series of counter arguments in Greek legal theory⁷⁶³ appears to have influenced the extension of non-liability in civil suit to all the other categories of civil servants or public functionaries for whom special provisions regulating their status and situation remained silent on the matter. First, the argumentation reiterated the relevant views expressed in the minutes of the Special Interparty Commission on the Greek Civil Code of the Fourth Revisionary Assembly in 1949⁷⁶⁴. Thus, it was argued that i) the liability of the state protected the citizen in a more effective way since he had the guarantee of obtaining proper compensation, ii) any direct civil action by an injured party against a civil servant would intimidate him since he would hesitate to act or decide, thus paralysing public administration, iii) the possibility of a direct civil suit might encourage citizens to act upon the revenge criterion. Second, the argumentation invoked the principle of equality before the law, as stamped in article 4 par. 1 of the Constitution, combined with article 26 of the International Covenant on Civil and Political Rights of the United Nations⁷⁶⁵ ratified under the law 2462/1997, supporting and imposing the retrieval of the legal inequality suffered by those under unfavourable discriminatory clauses relating to civil liability.

⁷⁶² According to article 2 of the Civil Servants' Code: "*Civil servants or functionaries working for the State or legal persons of public law and governed by special provisions pertaining thereto pursuant to a constitutional or legislative regulation, as well as civil servants working for local government agencies, are subject to the provisions contained in the present Code for those matters that are not regulated by the special provisions that specifically apply to them*".

⁷⁶³ Tachos, A. I, Comments on the Decision 12598/2003 of the Multi Member First Instance Court of Thessaloniki, *Armenopoulos*, January 2004.

⁷⁶⁴ See Fourth Revisionary Assembly, Minutes of the Special Interparty Commission on the Greek Civil Code, 1949, pp. 114-123.

⁷⁶⁵ Article 26 of the International Covenant on Civil and Political Rights of the United Nations reads as follows: "*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*".

Nevertheless, both categories of argumentation do not seem to take into consideration the aspect of expertise of high-ranking public functionaries, and insist on degrading them to the rank and status of mere civil servants. Moreover, the rationale of discrimination under article 4.1 of the Constitution combined with article 26 of the International Covenant on Civil and Political Rights of the United Nations could be reversed. More specifically, Clause 13 of the Human Rights Committee contained in “CCPR General Comment No. 18: Non-Discrimination⁷⁶⁶” states that: “*Finally, the Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant*”. If we take a closer look, this point seems to be in accordance with the justificatory basis of the decision of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos) since it sets reasonable and objective criteria for the constitution of a discriminatory treatment. It differentiates the degree of civil liability between high-ranking public functionaries and civil servants based on the criterion of expertise.

Immunity provisions for the members of the constitutional independent authorities in Greece

Immunity is a multifaceted legal term, but still “*with no universally recognised legal definition*”⁷⁶⁷. National constitutions and legislation, European Union law, and customary international law and applicable treaties recognise multiple types of immunity for states, heads of states, prime ministers and ministers of foreign affairs, deputies of national parliaments or the parliament of the European Union and its officials and servants, diplomats, representatives and officials of international organisations, judges. However, analysing these different types of immunity is beyond the scope of this dissertation and has already been done in literature.

Our interest focuses on the gradual emergence of a new generation of immunity or quasi-immunity arrangements for high-ranking public functionaries in non-majoritarian institutions. The members⁷⁶⁸ of the five constitutional independent authorities are high-ranking public functionaries, enjoy personal⁷⁶⁹ and functional independence⁷⁷⁰ and have no criminal, civil, and disciplinary liability. Their immunity does not extend to slander, libel or breach of confidentiality⁷⁷¹. Provisions that hold

⁷⁶⁶ It was adopted at the Thirty-seventh Session of the Human Rights Committee, on 10 November 1989. Available at: <http://www.unhchr.ch/tbs/doc.nsf/0/3888b0541f8501c9c12563ed004b8d0e?Opendocument>, date of access: 02.01.2010.

⁷⁶⁷ Fifth general activity report of the Council of Europe Group of Countries against Corruption (GRECO) (2004), p. 6, Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14-18 March 2005) Available at: [http://www.coe.int/t/dghl/monitoring/greco/documents/2005/Greco\(2005\)1_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/2005/Greco(2005)1_EN.pdf), date of access: 02.01.2010.

⁷⁶⁸ According to article 1 of the executive law 3051/2002 of the constitution regarding the constitutional independent authorities, the term “members of an independent authority” refers to the President or the supreme single-headed organ of its administration, to the Vice-President and the other members, as well as, their alternates.

⁷⁶⁹ Personal independence refers to the duration of their term of office, the way of their appointment and dismissal.

⁷⁷⁰ See Chapter 3, appendix 1, text for an explanation of the term functional independence.

⁷⁷¹ Article 1 of the law 3613/2007 provides that they are not “held responsible, prosecuted or subjected to inquiry for any opinion expressed or act committed in the discharge of their duties. Prosecution is permissible only following an accusation for slander, libel or breach of confidentiality”.

members of the constitutional independent authorities personally irresponsible first appeared in the law 2477/1997 establishing the Greek Ombudsman⁷⁷² and were repeated in its amendment⁷⁷³. Their extension to the members of the other constitutional independent authorities raised tremendous criticism on the part of the Union of Greek Prosecutors. When the draft law was submitted to Parliament⁷⁷⁴, the Union expressed deep concern for its constitutionality stating that “*the relevant clause contravenes the principle of equality before the law*”⁷⁷⁵. Furthermore, they argued that “*the immunity of the high-ranking public functionaries of the independent authorities comes to supplement a series of provisions that establish substantial impediments to the judicial-penal review of the actions or omissions of certain categories of public officials, such as ministers and deputies, in the performance of their duties*”⁷⁷⁶.

But what was the rationale for the introduction of these provisions in the first place? The Explanatory Report⁷⁷⁷ of February 7th, 1997⁷⁷⁸ that accompanied the draft law for the establishment of the Greek Ombudsman justifies it as follows: “*The need to protect the Ombudsman from devious, misleading and unfair accusations that would impede his work and would make him concentrate more on his judicial defence rather than on the control of public services, appears particularly intense in administrative systems that, as is the case of Greece, are quite centralised and not accustomed to control procedures. A relevant regulation is included in the French Law (article 3 of the Law 73-6/3.1.1973*”⁷⁷⁹). On the other hand, the Scientific Report of March 12th, 1997⁷⁸⁰, issued by the scientific service of the Parliament, makes no reference on the matter, and simply expresses its reservations concerning par. 4 article 2⁷⁸¹, and

⁷⁷² Article 1 par. 3 of the law 2477/1997 reads as follows: “*The Ombudsman and the Assistant Ombudsmen are not responsible and they are not prosecuted and examined for an opinion that they have expressed or for an act that they have performed during the exercise of their duties. A prosecution is permitted only for an accusation for slander, libel or breach of confidentiality*”.

⁷⁷³ Article 1 par. 2 of Law 3094/2003.

⁷⁷⁴ See above art. 1 of the law 3613/2007.

⁷⁷⁵ Article 4, par. 1 of the Constitution.

⁷⁷⁶ Newspaper, To Vima, article dated 06.11.2007 and entitled “Prosecutors against the immunity of the members of the independent authorities”, written by P. Tsimboukis, available at: <http://www.tovima.gr/default.asp?pid=2&ct=32&artid=218474&dt=06/11/2007>, date of access: 02.01.2010.

⁷⁷⁷ According to article 74 of the Constitution on the legislative procedure: “*Every Bill or law proposal must be accompanied by an explanatory report; before it is introduced to the Plenum or to a Section of Parliament, it may be referred for legislative elaboration to the scientific service defined in article 65 paragraph 5 as soon as this service is established, as specified by the Standing Orders*”.

⁷⁷⁸ The explanatory report is available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 02.01.2010.

⁷⁷⁹ “Art. 3 – Le médiateur ne peut être poursuivi, recherché, arrêté, détenu ou jugé à l’occasion des opinions qu’il émet ou des actes qu’il accomplit dans l’exercice de ses fonctions », Loi no 73-6 du 3 janvier 1973 instituant un médiateur » Journal Officiel de la République Française, 4 janvier 1973.

⁷⁸⁰ The scientific report is available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 02.01.2010.

⁷⁸¹ The article reads as follows: “*4. The Ombudsman may be relieved of his duties by a presidential decree, issued upon recommendation of the Ministerial Council and after previous opinion of the Institutions and Transparency Committee, on the grounds of inability in the performance of duties because of disease or disability, physical or mental one. The Assistant Ombudsmen may be terminated by decision of the Ministry of the Interior, Public Administration and Decentralization, upon*

recommends that the inefficiency in the performance of the Ombudsman's duties should also be provided among the reasons for the termination of his office as is the case with the Deputy Ombudsmen. This recommendation will not be included in the final text of the law, despite the fact that such a provision for the ombudsperson is commonplace in almost all other jurisdictions (Kucsko-Stadlmayer, 2008:13-14). Furthermore, we should note that the Parliamentary Assembly of the Council of Europe in its Recommendation 1615 (2003) concerning the characteristics that are essential for the effective operation of the institution of the ombudsman, provides for the dismissal of the ombudsman⁷⁸². On the other hand, the Explanatory Report in its rationale for the inclusion of such a provision, apart from invoking special attributes and conditions that dominate the Greek administrative system, seems to be inspired by the paradigm of the French Mediator.

As for the extension of immunity provisions to the other four constitutional independent authorities, the explanatory report⁷⁸³ that accompanied the draft Law justified the amendment of the executive law 3051/2002 of the constitution on the grounds that *“the expression of opinion, the vote and in general the actions of the members of the independent authorities as prescribed in the Constitution, while performing their duties, might be considered as the most essential aspect in the performance of their competences. For this reason they should be protected, so that the members of the administrative authorities can perform their competences according to their conscience . . . in this way a common regulation is introduced for the members of all the constitutionally consolidated independent authorities”*. Moreover, the scientific report⁷⁸⁴ expresses no reservations. Thus, we may distinguish two justificatory levels. The first justificatory level seems to perceive the members of these authorities as equals with the members of parliament. The words opinion, vote, conscience remind us of the relevant provisions relating to the immunity of parliamentarians. The second justificatory level regards the extension of the scope of the immunity as a fair measure since it establishes uniformity among the constitutional independent authorities deriving its legitimating basis from the paradigm of the French mediator.

recommendation by the Ombudsman, on the grounds of inability in the performance of their duties because of disease or disability, physical or mental one, as well as for inefficiency in the performance of their duties”.

⁷⁸² Recommendation 1615 (2003), par. 7. “The Assembly therefore concludes that certain characteristics are essential for any institution of ombudsman to operate effectively, namely: . . . iii. *exclusive and transparent procedures for appointment and dismissal by parliament by a qualified majority. . . v personal immunity from any disciplinary, administrative or criminal proceedings or penalties relating to the discharge of official responsibilities, other than dismissal by parliament for incapacity or serious ethical misconduct*”. Available at: <http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1615.htm>, date of access: 03.01.2010.

⁷⁸³ Available at: <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/s-esoter01-eis.pdf>, date of access: 03.01.2010.

⁷⁸⁴ Available at: <http://www.parliament.gr/ergasies/nomosxedia/EkthesiEpistimonikis/R-ELENXOS-EPIST.pdf>, date of access: 03.01.2010.

The first round of discussions in Parliament on the immunity of the Greek Ombudsman and Deputy Ombudsmen

The discussions and debates of the draft law “*Ombudsman of the Citizen and the Corps of Inspectors – Controllers of Public Administration*” in principal and in particulars in the Greek Parliament⁷⁸⁵ were of significant interest regarding the immunity clause provided for the Ombudsman and his deputies⁷⁸⁶. As already mentioned, neither the explanatory report nor the scientific report gave an interpretation of the provision, and it was not clear what immunity covered. This omission raised questions and hesitations. Some MPs doubted the constitutionality of the provision, whereas others proposed its amendment. The expression “*any . . . act committed in the discharge of their duties*” seems to have provoked intense controversy. The special speaker of DIKKI⁷⁸⁷ (Democratic Social Movement), Georgios Tsafoulas, expressed his concern on the absence of any political or administrative responsibility related to the functioning of the institution. He stated that neither kings nor heads of state enjoy such immunities, and wondered whether the ombudsman and his deputies were considered to be saints, and why they could not commit a violation of duty. He claimed that, in the discharge of their duties, they may commit the crimes of bribery, falsification of documents, fraud, defalcation or even oppress their employees in the sense of giving illegal orders⁷⁸⁸. He proposed that these offences or the consideration of others that might take place in the performance of their duties should also be taken into account in the formulation of the clause.

Anna Psarouda-Benaki, (New Democracy)⁷⁸⁹ agreed with the remark of the MP of DIKKI, and argued that the expression concerning the acts “is totally incomprehensible and almost inadmissible”. The wording was not clear as to whether this privilege was permanent. She assumed that the legislator simply had the intention to protect the ombudsman from vexatious actions by disgruntled litigants, that is, in cases where citizens considered that the ombudsperson was not responsive or expressed an opinion that was unsatisfactory to them. If the ombudsman and his deputies were vested with absolute immunity, it should only be limited to “any opinion expressed in the discharge of their duties”. Accordingly, they should be relieved of offences against honour or whatever stemmed from the expression of opinion. For all the other acts, breach of confidentiality included, the common law should apply. Finally, she stressed that the issues relating to the duration of this protection and to the statute of limitations should be regulated. On this point, Kyriakos Spyriounis, (PASOK)⁷⁹⁰, claimed that the meaning of the clause was not to cover illegal acts that might have intentionally been committed by the organs of the

⁷⁸⁵ Session 101, discussion and debate in principle, March 20th, 1998 and Session 102, discussion and debate in particulars, March 26th, 1998. Minutes of Parliament in Plenary session available at: http://www.parliament.gr/ergasies/praktika/pdf/20_03_97.pdf and http://www.parliament.gr/ergasies/praktika/pdf/26_03_97.pdf, date of access: 04.01.2010.

⁷⁸⁶ See above note 34.

⁷⁸⁷ The party was founded in 1995 by a group of former members of PASOK. Dimitrios Tsouvolas, former Minister of Finance in the governments of PASOK in the 80s, was the President of the party.

⁷⁸⁸ According to article 261 of the Greek Penal Code the exhortation of subordinates by their superiors to commit the offences of articles 235 to 260 of the said code, is a criminal offence.

⁷⁸⁹ The major opposition right wing political party.

⁷⁹⁰ PASOK (Pan-Hellenic Socialist Movement), the governing party.

said authority. Acts were conceived of in their strict sense, namely, the way these acts were carried out within the framework of the officials' competences. Thus, these public functionaries would be accountable for omission, non-transparent practices, faulty performance of their duties, or inefficiency connected to these acts. Consequently, this part of the clause should be separated from opinion, and it should be further clarified, so that even the suspicious ones would be persuaded.

When the draft law was discussed on particulars, Ioannis Varvitsiotis, (New Democracy), asked the Deputy Minister whether the expression "any act committed in the discharge of their duties" meant that no legal proceedings could be initiated against the ombudsman and his deputies and whether this had a permanent character. Fivos Ioannides, Parliamentary representative of PASOK, raised the issue of the constitutionality of the clause since, in his opinion, it was not possible to legislate on anyone's inviolability through common legislative procedure⁷⁹¹, and thus the provision would be legally invalid. On the other hand, he argued that protection against criminal proceedings should be avoided, despite the fact that he acknowledged that such a provision dealt with the substantive problem of constant prosecutions and lawsuits, which in turn would hinder the ombudsman's task. Thus, he suggested that the expression "any act committed in the discharge of their duties" should be amended as follows: The phrase "... are not subjected to inquiry for any opinion expressed" should remain, complemented by "... or for the remarks and the conclusions they formulate in their findings" since it was more probable that these competences would become the object of lawsuits.

Fotis Kouvelis, (SYNASPISMOS)⁷⁹², stressed that the formulation of the non-liability of persons presupposes the revision of the constitution, and insisted that the second part of the expression should be eliminated. This time, Anna Psarouda-Benaki, supported a more moderate version regarding the controversial second part of the phrase. Thus, she suggested, for the sake of the protection of the right of the citizen to file suit, the suspension of the prosecution of the ombudsman and his deputies while in office. Under these circumstances, the officials would continue to perform their duties, whereas legal proceedings would start after the expiration of their mandate.

⁷⁹¹ At this point he insinuated that the Constitution had to be revised. We should also mention that this was also pinpointed in GRECO's (Group of States against Corruption) Report on Greece in 2002. In the First Evaluation Round GRECO addressed the issue of the limitation of immunities. In the Immunities section of the Greek Report (p. 15) it is stated that: "*The Ombudsman also enjoys an immunity provided for in law but not by the Constitution*" (Group of States against Corruption Directorate, First Evaluation Round, Report on Greece adopted by GRECO at its 9th Plenary Meeting, Strasbourg, 13-17 May 2002.

Available at:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1\(2001\)15_Greece_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2001)15_Greece_EN.pdf)

According to its website "GRECO, the Group of States against Corruption, was established in 1999 by the Council of Europe to monitor States' compliance with the organisation's anti-corruption standards". As for its evaluation procedures they "involve the collection of information through questionnaire(s), on-site country visits enabling evaluation teams to solicit further information during high-level discussions with domestic key players, and drafting of evaluation reports. These reports, which are examined and adopted by GRECO, contain recommendations to the evaluated countries in order to improve their level of compliance with the provisions under consideration. Measures taken to implement recommendations are subsequently assessed by GRECO under a separate compliance procedure"

Available

at:

http://www.coe.int/t/dghl/monitoring/greco/general/3.%20What%20is%20GRECO_en.asp

and

http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp, date of access: 05.01.2010.

⁷⁹² Minor opposition left wing party.

In his reply, the Deputy Minister of the Interior, Public Administration and Decentralisation, (PASOK), Anastasios Mantelis, underlined that international experience showed that it was quite common for those who wanted to hinder the function of the institution to start legal proceedings against the ombudsman. He pointed at the example of France where legislation provided for the non-liability for the acts of the Ombudsman. Yet, the Greek legislator exempted the offences of slander, libel or breach of confidentiality since they constitute the citizens' constitutionally guaranteed rights of secrecy and personal dignity. Moreover, he stressed that non-liability refers only to opinions expressed or acts performed in the discharge of their duties. He added that courts would decide on whether an act was official or not. Non-official acts were excluded from the scope of the provision. As for the question raised by Ioannis Varvitsiotis, he explained that the privilege was permanent, and argued that suspending prosecution after the expiration of the ombudsman's mandate would not permit him to fulfil properly his mission. He stressed that this was a matter of political decision and that parliament should protect the ombudsman in order to perform his duties diligently. Finally, Fotios Kouvelis, proposed that, at least, they should introduce a provision for the waiver of the immunity, otherwise legislation would reserve for the ombudsman a position superior to that of parliamentarians.

The second round of discussions in Parliament on the extension of the scope of immunity to the members of the other constitutional independent authorities

Ten years after the establishment of non-liability of the Greek Ombudsman and his deputies, the discussions and debates in principal and in particulars of the draft law "*Regulations on issues of Independent Authorities, Inspector General of Public Administration, Corps of Inspectors-Controllers of Public Administration and other matters of the competence of the Ministry of Interior*" in Greek Parliament⁷⁹³ raised additional scepticism about the extension of the scope of immunity to the members of the other constitutional independent authorities. Moreover, discussion revolved around the institution of independent administrative authorities and their relationship with the political system. The rapporteur of the Majority, Fevronia Patrianakou (New Democracy), in her introductory speech, pinpointed that the proposal of article 1 of the draft law entitled "Liability of the members of the Independent Authorities" to extend the immunity provisions of the ombudsman and his deputies to the members of the other constitutional independent authorities was consistent with the need to protect them in the discharge of their duties. That regulation would guarantee the non-liability and inviolability of these members, for the sake of "*the unhindered, courageous and transparent performance of their duties*".

The special speaker of SYRIZA⁷⁹⁴, Theodoros Dritsas, reminded that his party had already submitted a request for a presentation of the rationale of the measure for each one of the authorities. He stated that the clause was general, and the Explanatory report was far from being illuminative. He pinpointed that it was of crucial

⁷⁹³ Session 20, discussion and debate in principle, October 31, 2007 and Session 24, discussion and debate in particulars, November 6, 2007. Minutes of Parliament in Plenary session available at: <http://www.parliament.gr/ergasies/praktika/pdf/es31102007.pdf> and <http://www.parliament.gr/ergasies/praktika/pdf/es06112007.pdf>, date of access: 05.01.2010.

⁷⁹⁴ Left wing party of the minor opposition. SYRIZA stands for "Bloc of the radical left".

importance to examine and justify the functional necessity⁷⁹⁵ of non-liability on a case by case basis since the regulatory domains and competences of the authorities varied.

The special speaker of LAOS⁷⁹⁶, Athanasios Plevris, apart from the fierce criticism against the institution of the independent authorities and their questionable role in the political system, made reference to the liability of judges⁷⁹⁷ in Greece, and wondered why the members of these authorities should be irresponsible. Ioannis Bougas, MP of the Majority (New Democracy), underlined that the clause was consistent with the principles of personal and functional independence of the members of the independent authorities as provided for in article 101A of the Constitution. Theofilos Leontarides, MP of the Majority (New Democracy), made no special comments in his speech, but it seems that there had been a misinterpretation as to what immunity covered. Leontarides and most MPs mention non-liability with respect to criminal offences. But this provision, as already mentioned, was inspired from that of the French Mediator which, in turn, drawn its formulation on the non-liability (irresponsabilité) of the French deputies⁷⁹⁸. On the French Mediator's website⁷⁹⁹ it is mentioned that: *"He also benefits from the exact same immunity as members of parliament: he may not be prosecuted or judged for the opinions he gives or the actions he takes in the exercise of his duties"*. This privilege is absolute for the French parliamentarians, that is, no legal proceedings – criminal, civil and disciplinary – can be initiated against them (Mark Van der Hulst, 2000). Consequently, we may argue that the provision should be interpreted according to the French model.

Apostolos Kaklamanis, MP of the major opposition (PASOK), supported that the members of the constitutional independent authorities should not be liable in relation to their opinions, but they should be prosecuted for those of their decisions that obviously violated the law they were supposed to defend against any interference. He emphasized that those decisions had a binding character – contrary to the ombudsman's recommendations- and that his proposal could make members of the authorities be fully aware of their responsibilities in the sense that they would resist to pressures that might lead them to act on the verge of illegality. He suggested the suspension of the prosecution until the expiration of the members' mandate, and proposed that the Conference of Presidents that nominated them should decide upon the waiver of their immunity. The decision should take into consideration the motivation of the prosecutions, namely, whether they were of a malicious or

⁷⁹⁵ This view to apply the criterion of functional necessity for the grant of immunities seems analogous to the case of the attempt to codify the privileges and immunities of international organisations and their officials in the late '60s. The International Law Commission and the committees from the Council of Europe took a contrasting approach to the issue. The former tended to expand them and advocated their harmonisation, whereas the latter tended to contract them and supported that immunity should be based on functional need (Frey and Frey, available at: http://www.diplomacy.edu/Books/mdiplomacy_book/frey_frey/frey_frey.htm, date of access: 05.01.2010.

⁷⁹⁶ Extreme right wing party of the minor opposition. LAOS stands for "Popular Orthodox Rally".

⁷⁹⁷ The judicial liability in Greece is criminal (Art. 239 and 259 of the Greek Penal Code), civil (mistrial-Article 99 of the Greek Constitution and article 6 of Law 693/1977), and disciplinary (Tsaoussi and Zervoianni, 2007) available at: <http://ssrn.com/abstract=1009455>, date of access: 05.01.2010.

⁷⁹⁸ Art. 26 par. 1 of the French Constitution: *"Aucun membre du Parlement ne peut être poursuivi, recherché, arrêté, détenu ou jugé à l'occasion des opinions ou votes émis par lui dans l'exercice de ses fonctions"*.

⁷⁹⁹ Available at: <http://www.mediateur-republique.fr/en-citoyen-01-01-04>, date of access 05.01.2010.

blackmailing character. After the expiration of their mandate, justice would decide upon these issues.

Anna Psarouda-Benaki, after having stated that she had discussions in the past with members of the independent authorities in her capacity as President of the Greek Parliament, communicated to Parliament that criminal proceedings had been initiated against most of the members of the Greek National Council for Radio and Television because of the sanctions and high fines they had imposed upon the Mass Media and journalists in the discharge of their sanctioning competences. In her opinion, these members should not be for ever unprotected⁸⁰⁰, simply because there were reactions against their regulatory action. Fotis Kouvelis, Parliamentary representative of SYRIZA, focused on the fact that the said provision was in tension with the principle of equality under article four of the Constitution, and that in his view such a protective clause would not stimulate the members of the authorities to perform their duties in a more prudent manner.

The evolution of the institution of the Ombudsman and immunity regimes

The Ombudsman is an institution already known in the ancient world and in the Islamic administrative tradition. In 1713 the absolute monarch Charles XII, during his thirteen year absence from Sweden, created the office of His Majesty's Supreme Ombudsman⁸⁰¹ in order to ensure that judges and public officials acted in accordance with the legislation in force and performed their duties diligently. He had prosecutorial powers since he could raise charges against them for dereliction of their duties. In 1809 the Swedish Parliament⁸⁰², as a result of the division of powers between the legislative and the King, appointed its own Ombudsman that was inspired by the institution of the Chancellor of Justice. The Parliamentary Ombudsman's duties were to protect the rights of citizens through inspections and inquiries that could also be initiated by the submission of complaints on the part of those damaged by the action of the public authorities⁸⁰³. The new agency was independent from the executive and initially it had prosecutorial powers. As time went on, there was a shift towards the waiver of prosecution for minor transgressions and an admonition was issued instead. In 1975, the Swedish Parliament abolishes the special right to waive prosecution as part of the broader reform of the major curtailment of the legal responsibility of public officials for their actions. Thus, the institution lost its punitive

⁸⁰⁰ Before the extension of the immunity regime, the members of the Greek National Council for Radio and Television were criminally and civilly liable for their acts or omissions in the exercise of their duties pursuant to article 3 of the Presidential Decree 573/1989 and article 3, par. 6 of the law 2863/2000.

⁸⁰¹ In 1719 the Supreme Ombudsman was given the title of Chancellor of Justice (Justitiekanslern). This office still exists, and today the Chancellor of Justice acts as the government's Ombudsman. Available at: http://www.jo.se/Page.aspx?MenuId=20&MainmenuId=12&ObjectClass=DynamX_Documents&Language=en, date of access: 05.01.2010.

⁸⁰² With the autocratic rule of King Gustav III fresh in mind, the legislators introduced into the new constitution a system that would allow Parliament some control over the exercise of the executive power.

⁸⁰³ During the first century of the existence of the Office, the total number of complaints amounted to around 8,000.

function⁸⁰⁴ substituted almost exclusively for the advisory and consultative ones. As for the immunity provisions, the Ombudsman may be prosecuted only with the approval of Parliament pursuant to article 8 of the Risksdag Act. The Committee on the Constitution may decide upon the institution of legal proceedings against a parliamentary Ombudsman for an offence committed in the discharge of his/her duties⁸⁰⁵. Consequently, for the first time, a parliamentary type of immunity shields high-ranking public functionaries that are not directly elected by the citizens.

The institution of the Ombudsman moved to Finland (1920), Denmark⁸⁰⁶ (1955), Norway (1962), and was introduced to the English speaking world through New Zealand (1962). The social movements in the 60's precipitated the procedure of setting up Ombudsman offices in the United States. This was a time when the public's distrust of the executive and its dissatisfaction with courts and bureaucracy created conditions favorable to openness and to a more decentralized and responsive government (Kaufman, 2004). Hawaii was the first state to establish a public sector office in 1967⁸⁰⁷. Since then a number of states, counties and municipalities have followed suit by establishing offices of general jurisdiction. The first model ombudsmen law⁸⁰⁸ was adopted in 1969 by the American Bar Association and can be revised under authorisation of the board of directors of the United States Ombudsman Association. Immunity provisions are expressly set forth: "*the ombudsman has the same immunities from civil and criminal liability as a judge of this State*"⁸⁰⁹. The immunity model for the Ombudsman in the United States stems from the immunity of state judges. In the United States judges enjoy absolute immunity from civil claims with the exception of decisions that do not fall into their judicial competences (i.e. administrative decisions) or in cases of declaratory or injunctive relief. Moreover, the doctrine of sovereign immunity⁸¹⁰ prevents injured parties from actions against the state for any responsibility of judicial nature (Tsaoussi and Zervogianni, 2007). According to the penal codes of the states, judges may be prosecuted for bribery and abuse of power (Goré, 2006).

⁸⁰⁴ The Parliamentary Ombudsman still reserves the right to act as a special prosecutor against public officials for criminal acts committed under their public duties but the initiation of such legal proceedings today is rare. On the other hand, he has the right to initiate disciplinary procedures against an official for misdemeanours.

⁸⁰⁵ Chapter 9, article 8 of the Riskdag Act: "A decision may be taken to institute proceedings against an official named below for an offence committed in the execution of his appointment or duties: (...)

2. In the case of legal proceedings against a member of the Riksdag Board of Administration, the Election Review Committee, or the Riksdag Complaints Board, or against a parliamentary Ombudsman or the Clerk of the Chamber, only by the Committee on the Constitution". Available at: http://www.riksdagen.se/templates/R_PageExtended___6426.aspx, date of access: 05.01.2010.

⁸⁰⁶ The first Ombudsman in Denmark, unlike the Swedish and Finnish models, initiated the tradition of the restriction of jurisdiction of the institution, that is, it focused mainly on public administration.

⁸⁰⁷ In operation in 1969 (Reif, 2004).

⁸⁰⁸ This model was inspired by Gellhorn's model Ombudsman law (Hoover, 2008).

⁸⁰⁹ Model Ombudsman Act for State Governments drafted by Model Ombudsman Act Committee of the United States Ombudsman Association and approved on February 11, 1997 by the United States Ombudsman Association's Board of Directors. Available at: <http://www.abanet.org/adminlaw/ombuds/usamodel1.html>, date of access: 05.01.2010.

⁸¹⁰ The State may not be sued without its consent.

At this point we should underline that the paradigm of New Zealand⁸¹¹ represented a turning point for the formulation of a new philosophy. The Ombudsman's institution – unfettered by its punitive component⁸¹² – served as a model for the establishment of agencies where the role of citizens through the submission of complaints was predominant. The previous 'investigation and report' mode of operation gave its place to case handling where recommendations and conciliatory approaches served as devices for remedial action. This gradual reform in both theoretical and practical perspectives of the institution could be regarded as part of the access to justice movement⁸¹³ where Alternative Dispute Resolution⁸¹⁴ figured as one of its main components. The concept of what is called the classical Ombudsman started to expand in both the public and private sectors and took the form of a pure alternative resolution mechanism, representing the organizational model. Nevertheless, if we take a closer look, the classical ombudsman does not fit wholly to the tradition of adversarial dispute resolution since, after having made a recommendation as a result of a judgment about who is right and wrong, he is not authorized to enforce that judgment (Gadlin, 2000). At this point attributes of mediation⁸¹⁵, a form of alternative dispute resolution, come into play on a symbolic or informal level. Reason as stamped

⁸¹¹ The Ombudsman Activities Project undertaken by the Institute of Governmental Studies in Berkeley University was inspired by the creation of the new Ombudsman Office in New Zealand. In 1964, Stanley Scott, Assistant Director of the Institute suggested that the Institute "ought to keep an eye on Ombudsman developments and follow them and study them". Establishing Ombudsman Offices: Recent experience in the United States, Transcript of the Ombudsman Workshop Honolulu, Hawaii May 5-7, 1971, Eds, Stanley V. Anderson and John E. Moore, Ombudsman Activities Project, 1972 Available at: http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_&ERICEstSearch_SearchValue_0=ED077073&ERICEstSearch_SearchType_0=no&accno=ED077073, date of access: 05.01.2010.

The focus was primarily set on redressing grievances. A comparative study of Ombudsman Offices in Australia, Pakistan, www.policy.hu/bokhari/Ombudsman_An%20Introduction.doc, date of access: 05.01.2010.

⁸¹² Gellhorn (1967) in his historical comparative analysis on the institution of the Ombudsman and its benefits in modern societies underscored that it serves as a complementary mechanism to traditional administrative and legal remedies, and pointed out that any attempt to punish or embarrass administrators should be avoided.

⁸¹³ In the 1960s, reformers called for changes in national legal systems to enhance "access to justice" for disadvantaged groups and citizens at large. Cappelletti and Garth popularized the idea of access to justice in their international study "Access to Justice: The Worldwide Movement to Make Rights Effective—a General Report" and identified the movement with legal aid, representative actions, alternative dispute resolution, and other strategies of court reform.

⁸¹⁴ "Alternative Dispute Resolution (ADR) mechanisms are common components of legal and judicial reform projects. From mediation and conciliation, in which a third party presents a non-binding solution to a dispute, to arbitration, in which disputants are contractually bound to abide by a third party's decision, alternative dispute resolution mechanisms can shorten the time needed to resolve disputes, lower litigation costs, and alleviate slow or overburdened courts" Excerpt available at: . <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTINST/0,,contentMDK:20745989~menuPK:1990313~pagePK:210058~piPK:210062~theSitePK:1974062,00.html>, date of access: 05.01.2010.

⁸¹⁵ Carie Menkel-Meadow (2000) defines "Mediation, as a structured form of conflict resolution, challenges the Anglo-American ideal of adversarial dispute resolution, which presumes that two sides must argue their case to a third-party neutral who will make rule-based, often binary, decisions about who is right and wrong. Instead mediation offers the possibility of party-crafted solutions to problems, disputes, conflicts, transaction and relationships, which are facilitated by a third party with no authority to decide anything or to impose rules".

in the ombudsman's decisions does not have an enforcing power and persuasion becomes the final tool to achieve voluntary compliance. In this sense, the institution represents a hybrid type of resolution mechanism combining the adversarial and the alternative dispute resolution traditions. As time goes by, this symbolic and informal alternative aspect observed at the initial stage of the classical ombudsman, will be substituted for the formal use of flexible methods of procedure parallel to the classical investigatory function. Thus, legislation may give the Ombudsman the authority to proceed to case handling without the need for an investigation. Consequently, formal and more structured Alternative Dispute Resolution methods were introduced (Stodulka, 1998). These new ADR applications vested the institution with the function of a dispute resolver.

France, as other consolidated democracies in Western Europe, within the context of reforming its governance structure after the turbulent events of 1968 which echoed the general public distrust of the traditional and legislative functions, established the French Mediator in 1973 (Clark, 1984). The term "Mediator" that was used to name the institution is not a coincidence. It reflects the impact of Alternative Dispute Resolution in the philosophy of the institution. Immunity provisions are expressly set forth: "Art. 3 – *The Mediator may not be prosecuted, searched, arrested or judged for the opinions he gives or the actions he takes in the exercise of his duties*"⁸¹⁶. The Mediator enjoys the same immunity as the members of parliament. Compared to the paradigms of Sweden and the U.S.A., France establishes a radical form of immunity, that is, absolute non-liability, since no authorisation for its waiver is provided for.

The Hybrid Ombudsman or the Human Rights Ombudsman is a quite recent evolution of the institution regarding its competences. But the need to set up national institutions for the promotion and protection of human rights was first discussed in 1946, two years before the adoption of the Universal Declaration of Human rights by the General Assembly (Gottehrer, 2002). Under the guidelines of the United Nations⁸¹⁷ and the co-ordinating efforts of the Organisation for Security and Cooperation in Europe (OSCE)⁸¹⁸, the classical ombudsman could additionally handle complaints about violations of human rights under the obligations of international treaties and/or national legislation on human rights. Separate offices for the protection of Human Rights could also be set up.

⁸¹⁶ Law no 73-6 January 3, 1973 establishing a Mediator, Journal Officiel de la République Française, 4 janvier 1973.

⁸¹⁷ In the First International Workshop on National Institutions for the promotion and Protection of Human Rights that took place in Paris in October 1991, the Paris Principles, as have been called its conclusions, affirm that national institutions have competence to promote and protect human rights (Reif, 2004). The Paris Principles were embodied in resolution 48/134 on National Institutions for the Promotion and Protection of Human Rights of the General Assembly of the United Nations, dated 20 December 1993 (A/RES/48/134).

⁸¹⁸ Originally created in 1975 and renamed in 1995, it is "an informal forum for the discussion of matters ranging from peace and security to democratisation and human rights. It has 55 participating States from Europe, Central Asia and North America" (Reif, 2004).

Sources of inspiration and rationales for the establishment of immunity provisions in the institution of the Ombudsman

In most jurisdictions immunity arrangements for the ombudsperson are clearly inspired by parliamentary immunity. In this part a short note on the origins, the major systems and rationale for the parliamentary immunity will be outlined⁸¹⁹. This will enable us later to better understand and assess its transfer to the office of the Ombudsman. Historically, two different immunity systems protecting parliamentarians have emerged thus reflecting two different legal traditions in relation to the protection of human rights against those in power. On the one hand, in England, a series of Acts⁸²⁰ established a consensual system on basic political values in the country that excluded the concept of any kind of prerogatives. On the other hand, France experienced a fierce transition to democracy through a revolution. In the revolutionary period the position of the National Assembly was strengthened towards the other organs of the State, whereas this superiority in the meta-revolutionary era vested the representatives of the people with special privileges. The concept of inviolability is introduced⁸²¹, that is, the MPs are not prosecuted for private acts carried out in the performance of their duties. This measure aimed to protect the MPs against the arbitrariness of the executive.

Thus, two models of parliamentary immunity were formulated. The first model, representing a narrow version of immunity, bars any legal action against the legislative agency of the deputies, that is, their parliamentary speech, debate and votes (parliamentary non-accountability). The principle of freedom of speech in Parliament was formally inscribed in the 1689 English Bill of Rights and has been adopted by almost all countries. The second model, which represents a broader version of immunity, includes non-accountability, but also demands the explicit authorisation of

⁸¹⁹ This part drew information from the following sources: Maas G. W., *Parliamentary Immunity, Studies of the*

Venice Commission, CDL(1995)004e-restr, Strasbourg, 24 January 1995, available at: [http://www.venice.coe.int/docs/1995/CDL\(1995\)004-e.asp](http://www.venice.coe.int/docs/1995/CDL(1995)004-e.asp), Van der Hulst, M. (2000), *The Parliamentary Mandate, A Global Comparative Study*, IPU, Geneva, available at: http://www.ipu.org/PDF/publications/mandate_e.pdf, date of access: 05.01.2010. "Privileges and Immunities in Parliament. General Debate moderated by Mrs Helene Ponceau, Secretary General of the Questure of the Senate (France), Const. Parl. Inf. 55 (2005), 190, available at: <http://www.asgp.info/Resources/Data/Documents/MSUMEOMVPXKTACUJDEWNDNORPOBTYP.pdf>, date of access: 05.01.2010, Parliamentary Immunity. Background Paper prepared by the Inter-Parliamentary Union, UNDP Initiative on Parliaments, Crisis Prevention and Recovery In association with the Inter-Parliamentary Union, Geneva, September, 2006, available at: <http://www.docstoc.com/docs/72258892/PARLIAMENTARY-IMMUNITY>, date of access: 05.01.2010, Wingley, S., (2003), *Parliamentary Immunity: Protecting Democracy or Protecting Corruption?*, The Journal of Political Philosophy, Volume 11, Number 1, pp. 23-40, Konan G., Wingley S., (2005), *Democracy and the politics of parliamentary immunity in Turkey*, New Perspectives on Turkey, no. 33 (2005): 121-143, Wingley, S., (2009), *Parliamentary Immunity in Democratizing Countries: The Case of Turkey*, *Human Rights Quarterly*, 31, pp. 567-591.

⁸²⁰ The Magna Carta in 1251, the Petition of Rights in 1627, the Habeas Corpus in 1670, the Bill of Rights in 1689, and the Act of Settlement in 1701: all these acts refer to common law, i.e. to the traditional rights and freedoms of individuals against the abuse of royal power. "It is therefore understandable that the members of the British Parliament have not felt the need to establish specific protection for themselves, since common law is sufficient to prevent and suppress illegal and arbitrary proceedings, arrests and detention." (Van der Hulst, 2000).

⁸²¹ On June 23, 1789 the French National Assembly declared "the person of each deputy shall be inviolable" (Van der Hulst, 2000).

the assembly for the initiation of any legal proceedings⁸²² regarding the non-legislative agency⁸²³ of the representatives (parliamentary inviolability). The narrow version influenced Commonwealth countries, whereas the two-component French model had the greatest impact in European countries and in the former colonies. Despite the fact that the degree of protection afforded by the first model varies among countries, in some of them, all judicial proceedings – criminal, civil and disciplinary – are excluded, and the deputy is protected not only as long as he holds the office, but also after losing her parliamentary mandate. In other words, parliamentary non-accountability is absolute and permanent. On the contrary, parliamentary inviolability is relative and temporary. It is relative in three ways: i) in many jurisdictions protection exists depending on the nature or gravity of the offence, whereas others make no distinctions, ii) it may be lifted and iii) in general, cases of *flagrante delicto*⁸²⁴ are exempted from the requirement of prior authorisation by Parliament. It is temporary since it lasts until the end of the MP's term of office.

The rationale for the MPs' immunity is related to the core of the democratic system since the MPs, as representatives of the people, formulate laws and policies. The privilege of freedom of speech and vote protects the function of representation and not the person itself. On the other hand, the lack of judicial review of the legislative agency is counterbalanced by the scrutiny of the public. Electoral accountability makes representatives vulnerable in the sense that they are subject to public criticism not only for the way they carry out their ordinary parliamentary duties, but also for the way they handle cases concerning requests for the waiver of the MPs' inviolability. Indeed, inviolability seems to bear severe and increasing criticism. Nonetheless, the main reason supporting its maintenance refers to the need to prevent indirect intimidation of the legislative agency of parliamentarians. Powerful interests could easily attempt to affect parliamentary decision-making by initiating legal proceedings against the non-legislative agency of deputies or threatening to do so. Thus, politically motivated charges are discouraged.

In recent years, scandals, strong criticism by the judicial world and the mass media and the individual's right of recourse to law has led to a serious reduction of this type of protection. It seems that in many consolidated democracies in Western Europe influenced by the French parliamentary tradition, the intolerance of the public opinion towards privileged categories of citizens before the law and the persuasive weakness of the "fear of the executive" pretext used by the MPs in order to justify the privilege of inviolability, restricted this rather obsolete and anachronistic protective measure. However, it is reasonably argued that the introduction of parliamentary inviolability is crucial for the function of parliaments in transitional societies where democracy is fragile, and the MPs have to be protected against the encroachments of the executive in order to control it in an effective way.

⁸²² The term, apart from prosecution for penal, civil or disciplinary liabilities, may also refer to protection from arrest, detention, personal searches, house or office searches, preliminary enquiries, police investigations and the use of special investigative means (telephone tapping etc) since the scope of inviolability immunity varies greatly among countries.

⁸²³ Non-legislative agency refers to acts other than those undertaken in pursuance of their parliamentary duties.

⁸²⁴ The term refers to any offence in the process of being committed or just committed.

Over the past two decades the institution of the Ombudsman has been introduced into countries in democratic transition as an indispensable part of strengthening the rule of law⁸²⁵. The diffusion of Ombudsmen offices in transitional countries created new versions of immunity arrangements based upon new rationales, and sources of inspiration. These new trends are supported and reflected in views of scholars, in guidelines of international organizations, in papers establishing legislative priorities for the institution, and legal opinions on Ombudsmen draft laws stemming from recommendations of the Venice Commission⁸²⁶ and resolutions of the United Nations. Stadlmayer (2008:15) in her European comparative legal study on the institution throughout Europe states: *“Immunity provisions aim to protect the ombudsmen, similarly to members of parliament, against the arbitrariness of the executive branch and to ensure their freedom to publicly denounce maladministration in the administrative branch”*. In this abstract, the fear of the executive argument, as in the case of parliamentary immunity, is reiterated.

Dean Gottehrer,⁸²⁷ an international Ombudsman consultant, in his briefing on the ombudsmen institution in the countries of the Organization for Security and Cooperation in Europe that took place in Washington in 1998, and in a number of his papers on essential characteristics and legislative provisions for the Ombudsman's office, suggests the inclusion of immunity provisions in national legislations and gives the rationale for such arrangements: *“The Ombudsman is an attractive target for the people criticized or served. The Ombudsman is immune from liability for acts performed under the law. Those dissatisfied with the Ombudsman may follow other official procedures to make government accountable. Immunity also allows the Ombudsman to focus resources on receiving and investigating complaints rather than defending suits. The Ombudsman may not be prosecuted criminally for acts performed under the law. This protects the office from another possible form of*

⁸²⁵ Regarding transition countries, Sir, John Robertson (New Zealand's Chief Ombudsman for the period 1986-1994) states: “The Ombudsman institution is seen in those countries as a valuable insurance against falling back into old habits, and an influential oversight organisation to ensure that the bureaucracy has a more human face”. The Ombudsman and the World by Sir John Robertson KCMG CBE, Twenty Years of Commonwealth Ombudsman 1977-1997, Commonwealth Ombudsman, Canberra, June 1997. p. 67

⁸²⁶ “The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe's advisory body on constitutional matters. Established in 1990, the commission has played a leading role in the adoption of constitutions that conform to the standards of Europe's constitutional heritage. The Venice Commission is composed of “*independent experts who have achieved eminence through their experience in democratic institutions or by their contribution to the enhancement of law and political science*” (article 2 of the revised Statute). The members are senior academics, particularly in the fields of constitutional or international law, supreme or constitutional court judges or members of national parliaments. Acting on the commission in their individual capacity, the members are appointed for four years by the participating countries. All Council of Europe member states are members of the Venice Commission. The European Commission and OSCE/ODIHR participate in the plenary sessions of the Commission”. Information available at: http://www.venice.coe.int/site/main/Presentation_E.asp, date of access: 06.01.2010.

⁸²⁷ At the time of the briefing on the Ombudsmen in the OSCE that took place in December 2, 1998 in Washington DC, he was consultant on ombudsmen in human rights institutions for the United Nations Development Programme, the UNDP, the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe and the United States Information Agency. He had also served as President of the United States Ombudsmen's Association from 1993 to 1995. He was also author of the “Ombudsmen and Human Rights Institutions in OSCE Participating States” 1998 report for the OSCE and also served as writer and editor of the International Ombudsmen Legislative Reference document for the International Ombudsmen Institute.

political control” (Gottehrer and Hostina, 1998; Gottehrer, 2002). In this justificatory statement, the fear of the citizen, “the people served” in Gottehrer’s words, becomes a new element apart from the old *cliché* of the fear of the executive reflected in the expression “the people criticized”.

The Recommendation 1615 (2003) 1 of the Parliamentary Assembly of the Council of Europe on the institution of the ombudsman and relevant opinions on draft legislation of member states issued by the Venice Commission become new sources of inspiration in context and wording. In Recommendation 1615 (2003) 1 the guarantee of “*personal immunity from any disciplinary, administrative or criminal proceedings or penalties relating to the discharge of official responsibilities, other than dismissal by parliament for incapacity or serious ethical misconduct*” is viewed as an essential characteristic for the effective operation of the institution of the ombudsman. This clause clarifies what immunity covers and corresponds to a clearly functional approach. The Venice Commission, in a series of opinions on draft laws on the institution of the ombudsman⁸²⁸, comments on provisions relating to immunity. Recent opinions⁸²⁹ are of special interest since they openly support the theory of functional necessity,⁸³⁰ and suggest that the implementation of immunity provisions should cover not only the ombudsperson, his or her deputies, but also the staff of the authority⁸³¹. As for the wording of the clauses⁸³², they are identical to article 18 of the General Agreement on Privileges and Immunities of the Council of Europe concerning the Officials of the Council of Europe⁸³³. Yet, contrary to other texts on

⁸²⁸ See documents on countries (Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Kazakhstan, Liechtenstein, Luxembourg, Montenegro, Serbia, The former Yugoslav Republic of Macedonia) for which there are opinions on the institution of the ombudsman available at: http://www.venice.coe.int/site/dynamics/N_Opinion_ef.asp?L=E, date of access:

⁸²⁹ Joint opinion on the Draft Law on the Ombudsman of Serbia by the Venice Commission, the Commissioner for Human Rights and the Directorate General of Human Rights of the Council of Europe. Adopted by the Venice Commission at its 61st Plenary Session, Venice, (3-4 December 2004) on the basis of comments by Mr R. Lavin (Member, Sweden) and Mr K. Tuori (Member, Finland), available at: [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)041-e.asp](http://www.venice.coe.int/docs/2004/CDL-AD(2004)041-e.asp), date of access: 06.01.2010, Opinion on the Draft Law on the People’s Advocate of Kosovo. Adopted by the Venice Commission at its 71st Plenary Meeting, Venice, (1-2 June 2007) on the basis of comments by Mr Pieter van DIJK (Member, the Netherlands), available at: [http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)024-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)024-e.asp), date of access: 06.01.2010, Opinion on Draft Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro. Adopted by the Venice Commission at its 80th Plenary Session, Venice, (9-10 October 2009) on the basis of comments by Mr Marek Antoni Nowicki (Expert, Directorate of Co-operation, Directorate General of Human Rights and Legal Affairs), and Mr K. Tuori (Member, Finland), available at: [http://www.venice.coe.int/docs/2009/CDL-AD\(2009\)043-e.asp](http://www.venice.coe.int/docs/2009/CDL-AD(2009)043-e.asp), date of access: 06.01.2010.

⁸³⁰ In its general remarks the opinion on the Ombudsman of Serbia states: “The ombudsperson, his or her deputies and the staff of the secretariat should benefit from a functional immunity”.

⁸³¹ The opinion on Draft Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro stresses that: “The draft does not devote sufficient attention to immunity issues. Article 14 provides that the immunity of the Protector and his/her Deputy are the same as granted to parliamentarians. This seems however inappropriate. Not only the Protector and his/her Deputies, but also his/her staff should have immunity “from legal process in respect of words spoken or written and acts performed by them in their official capacity.” Such immunity shall continue to be accorded even after the end of the Protector’s mandate or after the members of staff cease their employment with the Protector’s institution”.

⁸³² The relevant clauses are formulated as follows: “The ombudsperson, his or her deputies and the staff of the secretariat should be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limit of their authority”.

⁸³³ “Officials of the Council of Europe shall: be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limit of their

privileges and immunities regarding international, regional or supranational organizations, no provisions for the waiver of immunity are recommended⁸³⁴. The opinions on draft amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro and on the draft law on the People's Advocate of Kosovo move a step further, coming closer to the diplomatic paradigm, and provide that the immunity includes baggage⁸³⁵, correspondence and means of communication belonging to the Protector.

These paradigms may prove that neither parliamentary immunity nor the type of immunity enjoyed by judges were the only sources of inspiration for the introduction and the adaption of analogous provisions to the institution of the ombudsman. The core difference between these three institutions, that is, the legislature, the courts, and the ombudsman, is that only the ombudsman pertains to the bureaucratic model⁸³⁶. The MPs' non-accountability is related to their opinions expressed or votes cast, whereas judges are not liable for the content of their decisions in most jurisdictions⁸³⁷.

authority". Available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/002.htm>, date of access: 06.01.2010.

⁸³⁴ All the relevant texts provide for the waiver of immunity. For example, article 19 of the General Agreement on Privileges and Immunities of the Council of Europe concerning the Officials of the Council of Europe, states: "Privileges and immunities are granted to officials in the interests of the Council of Europe and not for the personal benefit of the individuals themselves. The Secretary General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Council of Europe. In the case of the Secretary General and of the Deputy Secretary General, the Committee of Ministers shall have the right to waive immunity". See also article 17 of the Protocol (No 36) on the privileges and immunities of the European Communities: "Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union. Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union" or article V, Section 19 of the Convention on the Privileges and Immunities of the United Nations: "The Secretary-General shall have the right and the duty to waive the immunity of any official in any case, where in his opinion, the immunity would impede the course of Justice and can be waived without prejudice to the interests of the United Nations".

⁸³⁵ No reference is made on reservations concerning personal baggage as provided for in Article 36 of the Convention on Diplomatic Relations: "1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the mission;

(b) Articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative".

⁸³⁶ Kaufman (2004) describes the ombudsman offices as highly bureaucratic. Moreover, Becky Hoover in her dissertation entitled "Building Community through the mediation of citizen complaints: The Mediator of the French Republic" states that: "A review of the organizational structure and founding documents of the office of The Mediator of the French Republic reveals that all six of Max Weber's characteristics of modern bureaucracy, as discussed in his seminal work *Economy and Society*, are present in the structure of the Mediator's office. These characteristics include clear areas of jurisdiction, hierarchy, full-time staff, rules, maintenance of written files, and specialized training for staff members (Weber, 1968; Hummel, 1994)". Available at: http://etd.ohiolink.edu/send-pdf.cgi/Hoover%20Becky%20J.pdf?acc_num=akron1207839242, date of access: 06.01.2010.

⁸³⁷ In Denmark, Spain and Estonia judges may be held criminally liable for the content of their decisions (Cavinet July-Hurard, 2006).

It is rather obvious that, as the institution evolved, immunity provisions were both indirectly justified and based on treaties, conventions or protocols dealing with privileges and immunities of international or regional organizations⁸³⁸. The bureaucratic model they both share becomes the common denominator for the formulation of identical immunity provisions, as we have already shown. But it should also be noted that, historically, international immunities have their origin in diplomatic privileges and immunities⁸³⁹.

After World War II the proliferation of international, regional, supranational, or intergovernmental organizations led to the adoption of immunity provisions according to which officials enjoy immunity from legal process⁸⁴⁰ for all acts performed by themselves in their official function. This is also known as immunity *rationae materiae* or *rationae functionae* and is differentiated from immunity *rationae personae* that covers all acts regardless of their nature, that is, whether performed in one's official or private capacity⁸⁴¹ (Wetzer, 2008). Protection *rationae materiae* is permanent, that is, beneficiaries of the privilege continue to enjoy immunity after they have ceased to hold office, whereas protection *rationae personae* lasts only as long as beneficiaries of the privilege hold office. Theorists put emphasis on the theory of functional necessity among various rationales⁸⁴² for the justification of immunities and privileges of officials in international organisations⁸⁴³ (Frey and Frey). The independent exercise of the functions of the officials is a prerequisite for the fulfillment of the purposes of such organizations. In other words, the nature of the functions presupposes a privileged work status. Thus, it should be taken into account that the same functional approach legitimizes the MPs non-liability, judges and ombudsmen, since this type of immunity is a guarantee of their independence.

Nevertheless, questions about the content of the acts performed in an official capacity, the preconditions, criteria, and transparency mechanisms to waive the officials' immunity in international and regional bureaucratized contexts seem to have become part of serious debates concerning the necessity of such immunities⁸⁴⁴. Moreover, we

⁸³⁸ See for example the Convention on the Privileges and Immunities of the United Nations (1946), the General Agreement on Privileges and Immunities of the Council of Europe (1949), the Agreement on Privileges and Immunities of the Organisation of American States (1949), the Protocol (No 36) on the privileges and immunities of the European Communities (1965).

⁸³⁹ Diplomatic law was based on well-established customary law which was codified in 1961 (Petrovic, 2009). The Vienna Convention on Diplomatic Relations provides also for the waiver of the diplomatic immunity in article 32 par. 1. ("The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under article 37 may be waived by the sending State").

⁸⁴⁰ The term "legal process" covers civil, criminal and administrative proceedings.

⁸⁴¹ Personal immunity is limited to diplomats, heads of State, heads of Government, ministers of foreign affairs, some other high-ranking officials, but it also applies to heads of international organisations (for example, the UN Secretary-General, Under-Secretaries-General and Assistant Secretaries-General) (Wetzer, 2008; Kolodkin, 2008).

⁸⁴² The other rationales refer to precedent, the independence or prestige of the organisation, and the equality of member states. Frey and Frey, available at: http://www.diplomacy.edu/Books/mdiplomacy_book/frey_frey/frey_frey.htm, date of access: 06.01.2010.

⁸⁴³ The same theory prevails in the justification of diplomatic immunities. In recent years, the representational theory has fallen out of use and the theory of extritoriality has received increasing criticism.

⁸⁴⁴ See the campaign for the suppression of European civil servants' immunities initiated by Newropeans, a transeuropean political movement. All documentation available at: http://www.newropeans.org/en/on-going/e-mmunities/articles_media.htm, date of access: 06.01.2010.

should bear in mind that the introduction of the doctrine of functional immunity to international organizations and their officials in the '50s was consistent with the concept of sovereign immunity of the states, namely, in an age when states were less subject to law suit. As time went on, state immunities eroded, and new legal concepts, such as individual or human rights, emerged (Hanrahan, 2005). Moreover, the fight against corruption came into play, and recommendations are made for the limitation of immunities (GRECO, 2005). In this context, the preservation of immunities seems rather anachronistic or, at least, calls for the reexamination of such legal arrangements.

A typology of immunity regimes in the institution of the Ombudsman

The attempt to formulate a typology of immunity regimes in the institution of the Ombudsman in Council of Europe member states drew inspiration from the report on the regime of Parliamentary Immunity⁸⁴⁵ in states represented in the Venice Commission⁸⁴⁶ (Venice Commission, 1996). The aim was to classify relevant legislation of the Council of Europe member states providing for immunity in the institution of the Ombudsman⁸⁴⁷, identify immunity models, and comment on them. Interestingly enough, many legal orders do not provide for immunity provisions in the institution of the ombudsman⁸⁴⁸.

Greco in its Fifth General Activity Report (2004) stated that “Immunity” is a term with no universally recognized legal definition”. Indeed, legal texts provide for a series of measures which vary among jurisdictions, organizations, and the persons covered by such arrangements. The extension of immunity regimes to the institution of the ombudsman gives the researcher the chance to approach and further clarify the concept through the construction of a multidimensional qualitative classification, that is, a typology (Bailey, 1994; Elman, 2005). Immunity clauses as prescribed in the relevant legislation of Council of Europe member states serve as the appropriate tool in order to extract the dimensions which constitute the concept of immunity itself. In other words, disentangling the concept of immunity in its constituents-dimensions through the immunity clauses constitutes the preliminary stage for the construction of

⁸⁴⁵ The final report was based on the draft report prepared by Mr G. W. Maas Geesteranus with the assistance of the Secretariat of the European Commission for Democracy through Law (Venice Commission). It was adopted by the Sub-Commission on Democratic Institutions and approved by the Venice Commission during its 27th meeting which took place on 17 and 18 May 1996. Available at: [http://www.venice.coe.int/docs/1996/CDL-INF\(1996\)007-e.pdf](http://www.venice.coe.int/docs/1996/CDL-INF(1996)007-e.pdf), date of access: 06.01.2010.

⁸⁴⁶ The following European states represented in the Venice Commission replied to the request for the submission of information on their respective immunity regimes: Albania, Austria, Belarus, Belgium, Bulgaria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine. Moreover, Canada, Japan, and Kyrgystan, non-European states represented in the Venice Commission, responded to the request.

⁸⁴⁷ See at Appendix 1, the tables summarizing legislation by Council of Europe member states in respect of the immunity regimes in the institution of the ombudsman.

⁸⁴⁸ Council of Europe member states with no immunity regime in the institution of the ombudsman: Austria, Belgium, Croatia, Denmark, Germany-Rhineland Palatinate (regional ombudsman), Iceland, Ireland, Italy-Valle d' Aosta (regional ombudsman), Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Slovakia, Switzerland-Canton of Zurich (regional ombudsman), United Kingdom.

a group of broader typologies (immunity models) on the one hand, and the identification of empirical cases for these immunity models, on the other.

The first stage of the classification process comprises the identification of the dimensions of the concept of immunity as prescribed in the legislation of 24 Council of Europe member states⁸⁴⁹. Thus, we have created a 4X8 matrix based on four dimensions, that is, the scope of immunity, its duration, the persons covered, and the provision for a waiving procedure. The scope of immunity, the first dimension, is divided in four categories related to whether immunity applies with regard to actions linked to official functions. Functional non-liability takes an absolute character when it extends beyond the expiration of one's mandate. The first category, the functional non-liability, shields the ombudsperson from judicial proceedings (civil, criminal or administrative) with regard to his official duties. The second category, the divided functional non-liability, could be conceived of as a sub-category of the functional non-liability. However, they do not coincide since the relevant immunity clauses simultaneously make a distinction between the opinions, views, decisions, or recommendations of the ombudsperson, and all the other acts in the discharge of his/her duties⁸⁵⁰.

The third category, extra-functional inviolability applies to the ombudsperson's acts which are not related to his public office. Nevertheless, this is a distinction that we made for methodological reasons since inviolability "may apply to any action linked to official functions or not" (Greco, 2005). Thus, each time the immunity clauses provide for inviolability, and remain silent on the functional non-liability aspect⁸⁵¹, inviolability is split into two separate categories: the extra-functional inviolability, and the functional non-liability. The scope of inviolability varies among countries, and the phrasing of the relevant clauses appears to have been modeled upon those regarding parliamentarians. In some cases inviolability applies to all proceedings (civil, criminal, and administrative), and protects from arrest and detention. The fourth category, the extended extra-functional inviolability, comprises those cases where extra-functional inviolability extends to search of residential and work premises, baggage, personal and work means of transport, correspondence, means of communication, documents.

The second dimension, the duration of the immunity, has two facets. As a rule, functional non-liability is perpetual in the sense that the protection for those enjoying immunity with regard to their opinions, recommendations or decisions is not limited to the duration of their mandate. Moreover, a certain group of immunity clauses also include the acts of the ombudspersons or the staff of the authority in functional non-liability with perpetual character. However, many jurisdictions, either through the wording of inviolability or an explicit formulation of the clause provide for the

⁸⁴⁹ The Council of Europe member states which provide for immunity clauses in the institution of the ombudsman are: Albania, Armenia, Azerbaijan, Bosnia-Herzegovina, Bulgaria, Czech Republic, Cyprus, Estonia, Finland, The Former Yugoslav Republic of Macedonia, Georgia, Greece, Hungary, Moldova, Montenegro, Poland, Romania, Sweden, Russian Federation, Spain, Portugal, Serbia, Slovenia, Ukraine.

⁸⁵⁰ Thus, the cells C17, C18, C19, and C20 of the 4X8 matrix (see Table 1) correspond to the acts of the ombudsperson, whereas the cells C21, C22, C23, and C24 correspond to the opinions, views, decisions, and recommendations expressed in the discharge of the ombudsperson's duties.

⁸⁵¹ See the formulation of the immunity clauses in the cases of Albania, Azerbaijan, the Czech Republic, Estonia, Moldova, Poland, the Russian Federation, and Ukraine.

functional non-liability immunity during the mandate. The third dimension, the persons falling under the ambit of the immunity clauses, refers to the ombudspersons and deputy ombudspersons, if the latter are provided for in legislation, or the staff of the authority, which is a rare case. The fourth dimension provides for whether a waiving procedure is established either in functional non-liability cases or in extra-functional inviolability cases. The relevant immunity clauses specify the competent authority or person that decides upon the waiver of immunity, except in cases of *flagrante delicto*, that is, if being caught at the scene of a crime. The procedure and preconditions for the waiving of immunity are explicitly set forth in the immunity clauses.

The second stage of the classification process comprises the design and construction of the 4X8 matrix of Table 1 based on the four dimensions of the first step of the classification process. Furthermore, the cells are numbered, and empirical cases, that is, Council of Europe member states are located in them. Thus, a combination of numbered cells or a cell on its own constitutes the immunity clause of each jurisdiction. The third step of the classification process consists of the construction of immunity models. The groups of countries pertaining to the same cells of the 4X8 matrix fall within the ambit of a common immunity model since they share common dimensions.

The third stage of the classification process comprises the compression of a number of cells of the 4X8 matrix of Table 1. Compression procedures are part of the classificatory process (Bailey, 1994; Elman, 2005). We will apply empirical compression, thus “deleting empty cells”, and logical compression, thus “deleting cells that are the product of impossible or highly improbable combinations of variables” (Elman, 2005). The cells A2, A5, A6, A8, B10, B11, B13, B14, B15, B16, C18, C20, C21, C24, D26, D27, D28, D29, D30, D31, and D32 in the 4X8 matrix can be deleted since there are no empirical cases in the group of countries under study. However, the case of Kosovo, which is excluded from the group of Council of Europe member states⁸⁵², pertains to the hybrid immunity model, and could be located in cells A6⁸⁵³ and A7. Kosovo represents an outlier in relation to the staff’s immunity since it is perpetual, and applies to all “the words spoken or written and acts performed by them in their official capacity” according to Section 12 par. 1 of the Regulation No 2006/06 of the United Nations Interim Administration Mission in Kosovo. On the other hand, we may reduce the property space using logical compression. Thus, the cells A5, A8, B10, B11, B13, B14, B15, B16, C21, C24, D26, D27, D29, D30, D31, and D32 in the 4X8 may be deleted since the combination of variables does not produce logical results. More specifically, the concept of inviolability is incompatible with the perpetual aspect of immunity⁸⁵⁴. The perpetual aspect of immunity is incompatible with a waiving procedure⁸⁵⁵. Finally, the concept of inviolability is incompatible with the inexistence of a waiving procedure during one’s mandate⁸⁵⁶.

⁸⁵² Kosovo pertains to the group of states which are Non-UN member states recognised by at least one UN member. It is currently recognised by 71 UN members and 1 UN non-member state, the Republic of China (Taiwan), although Kosovo does not recognise the ROC.

⁸⁵³ The cell A6 was earlier deleted through empirical compression.

⁸⁵⁴ See the cells B13, B14, B15, B16, B29, B30, B31, and B32.

⁸⁵⁵ See cells A5, A8, C21, and C24.

⁸⁵⁶ See cells B10, B11, D26, and D27.

The fourth stage of the classification process provides for the construction of immunity models (typology) with their variations, and the identification of empirical cases pertaining to these models, that is, Council of Europe member states, combined with types of democracy for each empirical case. Table 2 presents the fourth stage of the classification process⁸⁵⁷. Three immunity models have been identified, and are briefly analyzed hereafter. Each immunity model has internal variations. The first one, the Broad Model, based on the French system of parliamentary immunity, provides ombudspersons with a broad scope of immunity that combines the two aspects of immunity, that is, non-liability in the discharge of the ombudspersons' duties (functional immunity), and inviolability for actions in their private capacity (extra-functional immunity). The Broad Model consists of six variations where all the dimensions create different combinations. The second model, the narrow model, is restricted to the protection of views, opinions, decisions, recommendations, and acts in the discharge of the ombudspersons' duties, that is, it does not extend to actions outside their official capacity. The Narrow Model comprises four variations.

The third model, the hybrid immunity model, introduces the extension of immunity to the staff of the authorities, thus imitating analogous immunity regimes for the staff of international organizations. Moreover, this innovative feature might encompass the staff's inviolability in respect of private actions, as is the case with Bosnia-Herzegovina. This privilege is limited in time for members of the staff, whereas the ombudsperson is to be informed by the competent body or authority in case any offence is committed by his personnel, and consequently decide upon the waiver of their immunity. Nevertheless, the provisions for the procedure to lift the immunity of the staff are not explicit in legislative texts⁸⁵⁸. It should be noted that a waiver mechanism is not provided for the non-liability aspect of the personnel's immunity, as is the case with Bosnia-Herzegovina, contrary to the procedure foreseen for international civil servants.

Finally, we have identified a fourth model, the qualified immunity model, which is not depicted in the 4X8 matrix of table 1. The immunity clauses of Cyprus and Romania⁸⁵⁹ appear to pertain to this model which partly erodes the absolute character of the notion of functional non-liability. If an ombudsperson is sued, the court is to determine on a case by case basis whether the alleged defendant acted based upon the respect of the constitutional rights criterion. The concept, as formulated in the '70s in the jurisprudence of the U.S. Supreme Court, led to the demise of the doctrine of

⁸⁵⁷ See Appendix 2 containing a table with the analytical version of the typology.

⁸⁵⁸ The Venice Commission in its opinion no. 274/2004 on draft amendments to article 23(5) of the Law on the Human Rights Defender of Armenia, pinpoints that the said article currently in force "*lacks sufficiently precise provisions on the procedure for waiving immunity*". Available at: [http://www.venice.coe.int/docs/2008/CDL-AD\(2008\)028-e.asp](http://www.venice.coe.int/docs/2008/CDL-AD(2008)028-e.asp), date of access: 06.01.2010.

⁸⁵⁹ The immunity clauses of Romania also provide for the ombudsperson's inviolability.

TABLE 1. Dimensions of the concept of immunity as prescribed in relevant legislation

Persons Covered: Ombudsman – Staff (Abbreviations: Omb-Staff)			
Possibility of waiving immunity: Waiver – Non Waiver of Immunity (Abbreviations: W-NW)			
Scope of Immunity	Duration of Immunity		
	DURING MANDATE	PERPETUAL	
Functional Non-liability A	1 Omb/W AL, AZ, CZ, EE, FI, MD, PL, SE, RU, UA	2 Staff/NW BA	3 Omb/NW RS*
	4 Staff/W AM	5 Omb/W FYROM	6 Staff/NW
Extra-Functional Inviolability B	7 Omb/NW AM**, BG, FR, GR**, ES, PT	8 Staff/W	9 Omb/W AL, AM, BA, BG, CZ, EE, HU, ME, PL, ES, PT, UA
	10 Staff/NW	11 Omb/NW	12 Staff/W BA
Divided Functional Non liability (Cells C17, C18, C19, C20: Acts of the ombudsperson, Cells C21, C22, C23, C24: opinions, views, decisions, recommendations of the ombudsperson) C	13 Omb/W	14 Staff/NW	15 Omb/NW
	16 Staff/W	17 Omb/W BA, GE, HU, ME, SI	18 Staff/NW
Extra- Functional Extended Inviolability D	19 Omb/NW HU**, SI	20 Staff/W	21 Omb/W
	22 Staff/NW	23 Omb/NW BA, GE,	24 ME Staff/W
	25 Omb/W AZ, GE, MD, RU	26 Staff/NW	27 Omb/NW
	28 Staff/W	29 Omb/W	30 Staff/NW
		31 Omb/NW	32 Staff/W

The abbreviations of the countries are given according to the 2-letter codes standardized by the ISO (*International Organization for Standardization*). Source, International Organisation for Standardization, available at: http://www.iso.org/iso/english_country_names_and_code_elements, date of access: 16.11.2010. These codes are based on the 3-letter codes of the country abbreviations published by the United Nations (see the United Nations official website, available at: <http://unstats.un.org/unsd/methods/m49/m49alpha.htm>). The 2-letter codes of the table correspond to the following countries: AL (Albania), AM (Armenia), AZ (Azerbaijan), Bosnia-Herzegovina (BA), BG (Bulgaria), CZ (Czech Republic), EE (Estonia), FI (Finland), FYROM (The Former Yugoslav Republic of Macedonia), GE (Georgia), GR (Greece), HU (Hungary), MD (Moldova), ME (Montenegro), PL (Poland), RO (Romania), SE (Sweden), RU (Russian Federation), ES (Spain), PT (Portugal), RS (Serbia), SI (Slovenia), UA (Ukraine). We used the symbol * in the case of Serbia in order to clarify that the functional immunity covers “any opinion, criticism, or recommendation” and not all the other acts in the discharge of the Protector of Citizens’ duties. We used the symbol ** in the cases of Armenia, Greece, and Hungary in order to clarify that slander and offence are exempted from the scope of immunity (Armenia and Greece). Moreover, a breach of confidentiality is equally exempted from the scope of immunity in the case of Greece. In Hungary slander and libel are exempted from the scope of immunity, whereas the Ombudsman of Civil Rights is responsible under civil law.

Table 2 Immunity Models, Empirical Cases, and Types of Democracy

Immunity Model	Variations of the Model	Council of Europe Member States	Type of Democracy
Broad Model (non liability +inviolability variations)	Functional non-liability+ extra-functional inviolability	Albania, Czech Republic, Estonia, Poland, Ukraine	New Democracies
	Functional non-liability + extended extra-functional inviolability	Azerbaijan, Moldova, Russian Federation	New Democracies
	Functional non-liability (perpetual) + extra-functional inviolability	Bulgaria, Spain, Portugal	New Democracies
	Divided functional non-liability (perpetual) + extra-functional inviolability	Montenegro	New Democracy
	Divided functional non-liability + extra-functional inviolability	Hungary	New Democracy
	Divided functional non-liability + extended extra-functional inviolability	Georgia	New Democracy
	Absolute functional non-liability (perpetual)	France, Greece, FYROM	Consolidated New Democracies
Narrow Model (non-liability variations)	Functional non-liability (during mandate-waiving procedure)	Finland, Sweden	Consolidated
	Divided functional non-liability	Slovenia	New Democracy
	Functional non-liability (during mandate-non waiver)	Serbia	New Democracy
	<u>Ombudspersons</u> : absolute functional non-liability (perpetual)+extra-functional inviolability	Armenia	New Democracy
Hybrid Model (broad model + staff immunity)	<u>Staff</u> : Functional non-liability		
	<u>Ombudspersons</u> : divided functional non-liability +extra-functional inviolability	Bosnia-Herzegovina	New Democracy
Qualified Immunity Model	<u>Staff</u> : Functional non-liability + extra functional inviolability		
	Courts decide upon the matter based on the principle of good faith	Cyprus, Romania *qualified immunity for official acts combined with extra-functional inviolability	New Democracies

official executive immunity from civil suits for damages as stamped in the 1896 case of *Spalding v. Vilas*⁸⁶⁰. Thus, in the case *Scheuer v. Rhodes* (1974) the decision of the Supreme Court attempted to strike a balance between the effective function of public administration, on the one hand, and the protection of the individuals' constitutional rights against incidents of their violation by agents of the state, on the other. The defendant had to prove that he acted in a reasonable way, and that he did not have the intention to harm an individual by disregarding his constitutional rights⁸⁶¹ (Rosenbloom, 1987).

As we have already stated most consolidated democracies and a limited number of new democracies do not provide for immunity arrangements in the institution of the ombudsman. However, France represents an outlier since it has established, as early as 1973, a unique immunity regime of an absolute character with regard to the protection of the functions of the ombudsperson. At the other end of the spectrum, Sweden and Finland provide for a soft immunity regime enshrined in their Constitutions. Greece pertains to the group of new democracies with a strong immunity regime since it is perpetual and covers all the acts in the discharge of the ombudsman's duties save in cases of slander, libel or violation of confidentiality. However, the majority of new democracies pertain to the Broad model combining non-liability and inviolability, whereas only Bosnia-Herzegovina and Armenia pertain to the hybrid model. Interestingly enough, the Venice Commission in its opinions on draft laws on the institution of the ombudsman clearly promotes the hybrid immunity model. Serbia, despite an analogous recommendation on the formulation of the immunity clause, finally opted for a soft version of immunity that protects the ombudsman's opinion, criticism, and recommendation during his mandate.

The regime of immunity in the institution of the Ombudsman: high protection for low risk regulatory agency?

The institution of the Ombudsman is an accountability mechanism, and constitutes a regulatory regime. More specifically, it pertains to the phenomenon of regulation inside government that refers to processes where government regulates itself beyond the two classical primary regulators, i.e., the courts and the legislature. This so-called secondary regulation is effected by public bodies operating at arm's length from the direct line of command and takes the form of a steering or control system – in a cybernetic perspective - that combines standard setting (the “director” element), information-gathering (the “detector” element), and behaviour modification (the “effector” element) (Hood et al., 1999). Despite the fact that Ombudsmen, as other regulators of government, rather disagree with such a categorisation (Hood, et al.,

⁸⁶⁰ The Court reasoned that: “*In examining the functions of his office, the head of an Executive Department, keeping within the limits of his authority, should not be under an apprehension that the motives that control his official conduct may, at any time, become the subject of inquiry in a civil suit for damages. It would seriously cripple the proper and effective administration of public affairs as entrusted to the executive branch of government, if he were subjected to any such restraint*”.

⁸⁶¹ The Court held that: “. . . a qualified immunity is available to officers of the executive branch of government, the variation of being dependent upon the scope of discretion and responsibilities of the office and all the circumstances as they reasonably appeared at the time of the action on which liability is sought to be based. It is the existence of reasonable grounds for the belief formed at the time and in light of all the circumstances, coupled with good-faith belief that affords a basis for qualified immunity of executive officers for acts performed in the course of official misconduct”.

1999: p. 53-54), it seems that their powers correspond to a great extent to the regulatory model.

First, it could be argued that standard setting, the director element of the control process, is indirect. The Ombudsman does not intervene directly in the legislative procedure⁸⁶². They supervise the rule of law in public administration and guarantee that the fundamental rights and freedoms of citizens, as prescribed in national and ratified international legislation, are not encroached upon in the public or in the private sector. But this supervisory role enables the Ombudsmen to identify problems and recommend amendments in law or propose new legislation that would improve the administrative system. In this sense, they may influence indirectly the legislative procedure. Nevertheless, in recent years, the initiative of the European Ombudsman to issue the Code of Good Administrative Behaviour, which was approved by the European Parliament, served as a model for the elaboration and drafting of similar codes by national institutions. They have a standard-setting nature and lay down general principles of good administrative behaviour and rules governing the action of public functionaries and civil servants.

Second, information gathering, the detection element, is two-fold. It may take either the form of inspection, as part of his investigatory competences⁸⁶³, or the form of mediation where the Ombudsman gathers information “*through a process of conflict by the assessment of complaints and disputes*” (Hood et al., 1999:47). Most of the time, in cases of violation of the duty of assistance by public agencies during the stage of investigation, moderate measures are undertaken⁸⁶⁴. Third, changing behaviour, the effector element, may be achieved through the enforcement of moderate measures since Ombudsmen lack prosecutorial powers or other punitive instruments. Thus, complaints submitted by individuals, may be resolved either by informal means (e.g

⁸⁶² The Venice Commission in its No. 425/2007 opinion on the possible reform of the Ombudsman Institution in Kazakhstan, adopted by the Venice Commission at its 71st Plenary Session (Venice, 1-2 June 2007) on the basis of comments by Mr Peter PACZOLAY (Member, Hungary) and Mr Hjörtur TORFASON (Member, Iceland) states that: “*It may generally be seen as consistent with the mandate of an Ombudsman or Human Rights Defender according to the model most widely accepted that the institution should have the power to make recommendations to the parliament or legislature for the introduction of amendments or additions to existing laws or other legislative innovation in respect of matters related to his mandate, in the annual report on its activities which the institution is expected to deliver or otherwise. This is the more so as in most countries, the Ombudsman/Defender is appointed by the parliament and expected to report to the legislative body . . . it is to be doubted that the institution of the Human Rights Ombudsman of Kazakhstan would gain by being endowed with a right of legislative initiative. In view of the neutrality and independence which the institution needs to possess in the pursuit of its functions, it is believed that the nation would be better served by having the mandate of the Ombudsman limited to the power of issuing recommendations for legislative reform to the Parliament and/or to the Government or the President of the Republic (to whom the Ombudsman reports according to the present Statute), without a direct initiative. Such recommendations in the annual or ad hoc reports obviously do not have binding effect, and do not oblige the state organs to act, but can influence them and might draw the attention of the public opinion to the issue in question.*” Available at: [http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)020-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)020-e.asp), date of access: 06.01.2010. Furthermore, it should be noted that in most European countries, contrary to the U.S.A., rule-making powers are not delegated to agencies regulating business with the exception of secondary legislation in some cases. Thus, even in business regulation the three components of control systems, that is, standard-setting, information gathering and enforcement- may not be combined within a single agency.

⁸⁶³ He may perform autopsies ex officio or within the context of grievance handling.

⁸⁶⁴ These measures may take the form of (administrative) criminal sanctions, involvement of other bodies of control, reports to superior agencies, or recording such failures to annual reports.

legal advice, explanation of a specific administrative conduct, advice about alternatives of action) or by alternative dispute resolution mechanisms (mediation). On the other hand, decisions in the form of recommendations, the most typical aspect of the institution's authority, are "soft-law" acts with no legally binding character. Thus, judicial review is excluded. Nevertheless, the case of the Parliamentary and Health Service Ombudsman in the U.K. seems to constitute an exception⁸⁶⁵.

The recommendations are submitted to the audited public service and notified to the complainant and the agency's supervising authority. Most legal frameworks do not provide for strict and explicit obligations of those audited to react to recommendations. In cases of indifference or reluctance of the audited agencies to respond to recommendations, sanctions may take the form of notifications to the competent supervising agency, initiation of criminal or disciplinary proceedings against officials (own initiative or recommendation to the competent authority), reports to Parliament, special reports, annual reports, publicity of recommendations through the office's website, brochures, bulletins and exposure of the deviant public services to the media (Kucsko-Stadlmayer, 2008). Publicity appears to be the only mechanism that might do damage to the regulatees' reputation. But is it really enough or effective? A crucial question thus arises: does the nature of the regulatory agency of the institution and its rather weak sanctioning toolkit justify such a high protection, that is, the provision of immunity arrangements in its various types, as already analysed, for the ombudsperson and his/her staff? In other words, is the measure consistent with the seriousness and gravity of the competences and powers of the institution?

It is obvious that the modern institution of the ombudsman represents a rather simplified version of its Swedish and Finnish prototypes. Maher Abdel Hadi in his paper "*The extension of the Ombudsman: the triumph of an idea or the deformation of an institution?*" discerns four stages in the process of deformation: i) the limitation of jurisdiction, that is, the administration of justice and public servants are exempted⁸⁶⁶, ii) nomination does not fall under the exclusive jurisdiction of parliament⁸⁶⁷, iii) the indirect lodging of complaints⁸⁶⁸, and iv) the lack of prosecutorial powers⁸⁶⁹. And he

⁸⁶⁵ The Report on the Pre-appointment hearing for the post of Parliamentary and Health Service, dated July 6, 2011, states: "*The Ombudsman has sole accountability for the decisions made and in this respect the role is quasi-judicial. Decisions of the Ombudsman are subject to judicial review*". Source: The Official Website of the U.K. Parliament, Pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman, Ninth Report of Session 2010-2012, Volume I: Report and appendices, together with formal minutes, available at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubadm/1220/1220.pdf>, date of access: 16.02.2012.

⁸⁶⁶ "*The Parliamentary Ombudsman [in Finland] has jurisdiction over public authorities, including ministers, judges, police officers, military officers, civil servants, public prosecutors, members of municipal councils, social welfare workers, tax commissioners and other civil servants.*" Excerpt from the First Evaluation Round, First Evaluation Report on Finland, p. 9, Adopted by the GRECO at its 5th Plenary Meeting (Strasbourg, 11-15 June 2001). Available at: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1\(2000\)4_Finland_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2000)4_Finland_EN.pdf), date of access: 06.01.2010.

⁸⁶⁷ He invokes the case of New Zealand where the first Parliamentary Commissioner for Investigation was nominated by the General Governor upon the proposition of Parliament.

⁸⁶⁸ In the United Kingdom and in France the complainant has to submit his complaint to a member of Parliament who, after having examined the grounds of the petition, forwards it to the Ombudsman.

⁸⁶⁹ "*The Parliamentary Ombudsman (Finland) can press charges before the courts if he/she finds evidence that a public authority or an official committed an offence in the exercise of his/her duties...he*

concludes that the “*the discovery of this institution by the non-scandinavian world simply permitted various countries to reformulate and “adapt” their old procedures of complaints and petitions that citizens addressed to their governors. And they have probably borrowed the Swedish term in order to fool public opinion and calm tensions resulting from the heaviness of bureaucracy*”.

Yet recent evolutions on the issue of the limitation of immunities, theoretical approaches, and relevant paradigms may offer an opportunity to better develop our argumentation. The Committee of Ministers of the Council of Europe in its Resolution (97) 24 on the twenty guiding principles for the fight against corruption expressly stated its willingness to “*limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society*” (Principle 6)⁸⁷⁰. During its first evaluation round (2000-2002), the Group of Countries against Corruption (GRECO) monitored the categories of officials enjoying immunity and the procedures followed for its waiver in member states of the Council of Europe. An interpretation of these two aspects of the Guiding Principle 6 was thus instituted. GRECO recommended that there should be a limitation of the categories of officials benefiting from immunity to a minimum, on the one hand, and that the procedure of the waiver of immunity should be “*clear, objective, swift and transparent*”, on the other. (GRECO, 2004).

The underlying theme for the limitation of immunities was that such legal arrangements provided for certain categories of holders of public office and/or elected representatives might seriously prevent the fight against corruption and hamper the initiation of court proceedings against those involved in corrupt practices. The institution of the Ombudsman is related to the prevention of corruption since it supervises public administration and deals with phenomena of maladministration. Moreover, good governance and human rights, as promoted and protected by the institution, are strictly related. In its conclusions, the joint OHCHR-UNDP Seminar on good governance practices for the promotion and protection of human rights highlighted that “*human rights and good governance are affected by corruption on the one hand and can contribute to the fight against corruption on the other hand*”⁸⁷¹.

is generally competent to examine complaints relating to prosecutor’s activities although in practice the complaints are examined by the Prosecutor General. If a prosecutor decides not to prosecute in a specific case the Parliamentary Ombudsman is empowered to order the reopening of the case or to prosecute himself”. Excerpt from the First Evaluation Round, First Evaluation Report on Finland, p. 10, Adopted by the GRECO at its 5th Plenary Meeting (Strasbourg, 11-15 June 2001). Available at: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1\(2000\)4_Finland_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2000)4_Finland_EN.pdf), date of access: 06.01.2010.

“*The Parliamentary Ombudsmen [in Sweden] check that the authorities under the supervision apply the laws in a correct way. All Government officials are accountable under criminal law for the way they carry out their powers. There is a law on negligent or abuse of public power; and the Parliamentary Ombudsmen are empowered to prosecute any official or judge if there is reason to believe s/he acted wrongly when on duty*”. Excerpt from the First Evaluation Round, First Evaluation Report on Sweden, p. 13, Adopted by the GRECO at its 5th Plenary Meeting (Strasbourg, 11-15 June 2001). Available at: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1\(2001\)3_Sweden_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2001)3_Sweden_EN.pdf), date of access: 06.01.2010.

⁸⁷⁰ Resolution (97) 24 on the twenty guiding principles for the fight against corruption, available at [http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20\(97\)%2024%20COE.pdf](http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20(97)%2024%20COE.pdf), date of access: 06.01.2010.

⁸⁷¹ The Seminar was organised by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme and took place in Seoul in 15-16 September,

Within this context we could argue that the ombudsperson and his/her staff should not enjoy immunity. Nevertheless, GRECO in its compliance reports, and the Venice Commission in its opinions, excludes the office from the scope of the Guiding Principle 6.

Indeed, the Venice Commission in its Joint Opinion No. 490 / 2008 adopted at its 76th Plenary Session (Venice, 17-18 October 2008), following the submission of a letter dated 1 July 2008, by the Human Rights Defender of Armenia, Mr Harutyunyan, who requested from the Venice Commission an opinion on amendment to article 23(5)⁸⁷² of the Law on the Human Rights Defender, found that the proposed amendment⁸⁷³ to deprive the staff of the immunity regime it enjoyed was inconsistent with the guarantees of independence that the institution requires. More specifically, the Guiding Principle 6, that is, the fight against corruption, served as the justificatory basis for the said amendment. In the Joint Opinion it was stated that GRECO's compliance report on Armenia did not recommend the removal of immunity clauses regarding the Protector or his/her staff since "*the institution of the Human Rights Defender falls within 'the justifiable range of holders of public office who should enjoy an immunity according to the distinctive characteristics of the office and the functions performed'*". It is obvious that in the Commission's view the preservation of immunity provisions overweighs the principle of the fight against corruption since "*owing to its tasks conducting a special kind of examination often resulting in strong criticism of the authorities, the institution becomes a likely target of attacks motivated by political and other interests*".

The fear of the executive argument is reiterated. But is it strong enough to support an institution with advisory competences and no substantial punitive powers apart from criticism of the authorities? Moreover, the theory on the separation of powers, as the unique justificatory basis for the legitimisation of immunity in civil and criminal actions in a democratic society, seems to be incompatible with the profile of the institution. The non-liability aspect of immunity is closely linked to the necessary legitimate discretion that elected or appointed officials use in the discharge of their duties. Differently put, judicial sanction should not interfere into the discretionary area of the decision-making process of the executive, the legislative, and the judiciary that otherwise hampers their functional independence (Opinion No. 492, Venice

2004. Information taken from the "Chairperson's Statement United Nations Conference on Anti-Corruption Measures, Good Governance & Human Rights Warsaw, Republic of Poland, 8-9 November 2006". Available at: <http://www2.ohchr.org/english/issues/development/governance/docs/Chairperson-Statement.pdf>, date of access: 07.01.2010.

⁸⁷² Article 23(5) reads as follows: "*Those persons that hold any position in the Defender's staff cannot be convicted, persecuted, detained, arrested or brought to court for any action performed, opinion expressed or decision made while performing their responsibilities under the Defender's instructions. In all these circumstances when any person holding a post in the staff is detained, arrested or brought to court, the enforcing agency shall inform the Defender of this occurrence in the defined procedure and due time*". Available at: [http://www.venice.coe.int/docs/2008/CDL\(2008\)087-e.pdf](http://www.venice.coe.int/docs/2008/CDL(2008)087-e.pdf), date of access: 07.01.2010.

⁸⁷³ The proposed amendment reads as follows " "*In case of subjecting any person holding a post in the HRDO staff to detention, arrestment, administrative or criminal liability by court order, the enforcing agency shall inform the Defender of this occurrence in the defined procedure and due time.*" Available at: [http://www.venice.coe.int/docs/2008/CDL\(2008\)087-e.pdf](http://www.venice.coe.int/docs/2008/CDL(2008)087-e.pdf), date of access: 07.01.2010.

Commission, 2008; GRECO, 2004). The institution of the Ombudsman does not fit into this context. The criticisms expressed by the Ombudsman in the annual reports, in reports to Parliament or publicised to the media, on the one hand, and the non-binding recommendations aiming to reform legislation and persuade the regulatees, on the other, could be paralleled neither with parliamentary deliberation nor with binding court decisions.

Nevertheless, the Venice Commission's and GRECO's view that the preservation of the immunity provisions for the ombudsman and his/her staff is not inconsistent with the fight against corruption principle seems to be challenged by the context of a recommendatory document issued by EURALIUS and OPDAT in 2008⁸⁷⁴. It is addressed to two authorised members of the Council for Legislation of the Assembly of Albania within the initiative to reform the immunity of members of Parliament and others through Constitutional revision. The People's Advocate in Albania enjoys the same immunity as a High Court Judge. The proposed constitutional amendment on the restriction of High Court Judges' immunity affects directly that of the People's Advocate, and makes no distinction. More specifically, the document states: *"Interventions would, it seems to us, be required only in articles 73 (deputies), 126 (Constitutional Court judges) and 137 (all other judges). While there are other provisions in the Constitution referring to the immunity of particular officials (for example, article 61/3 on the People's Advocate or article 165/2 on the Chairman of High State Control), those provisions cross-refer to the immunity of High Court judges"*.

⁸⁷⁴ The document is available at: http://www.euralius.org.al/reccomendations/eng/Microsoft%20Word%20-%20Immunity_Memo_eng.pdf, date of access: 07.01.2010. According to the information available on their respective websites: "EURALIUS II (European Assistance Mission to the Justice System in Albania) is a project funded by the European Commission under the Albania CARDS 2006 programme. It is a direct follow-on project from the previous EURALIUS I Mission which was completed in the middle of November 2007. Like EURALIUS I, the contractor of the new Grant Contract of EURALIUS II is the Federal Ministry of Justice of Austria, which is implementing the project in a consortium together with the Federal Ministry of Justice of Germany". <http://www.euralius.org.al/php/index.php?lang=1&page=1>, "The objective [of the programme] is to facilitate, through the building of the required capacities within the Ministry of Justice and the Judiciary the development of a more independent, impartial efficient, professional, transparent and modern justice system in Albania, therefore contributing to the restoring of people's confidence in their institutions and the consolidation of democracy and rule of law in the countries", (<http://www.euralius.org.al/php/index.php?lang=1>). "Established in 1991, the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), draws on Department of Justice resources and expertise to develop and administer technical assistance designed to enhance the capabilities of foreign justice sector institutions and their law enforcement personnel, so they can effectively partner with the Department of Justice in combating terrorism, trafficking in persons, organized crime, corruption, and financial crimes", <http://www.justice.gov/criminal/opdat/about/mission.html>.

It is recommended that the newly adopted Constitution of Kosovo⁸⁷⁵ could serve as a model for the amendment of article 137 on the immunity of ordinary judges (including those of the High Court). Thus, judicial scrutiny interferes directly into the regulatory agency of the People's Advocate since courts are competent to decide upon whether there has been an intentional violation of the law in the discharge of his/her duties. Finally, despite the fact that Albania pertains to transitional democracies, the recommendation transcends this cliché, so regularly invoked for the preservation of complete immunity arrangements in such countries, and pinpoints: *"We are, as we said above, aware of the tensions and lack of trust existing in Albania at this time among the institutions, and there is no doubt that lawmakers, judges and other government officials should be protected from abuse of the criminal justice system for political purposes. In the early stages of democratic development in Albania, it may be that this need for protection justified the grant of complete immunity. But Albania has moved forward and should now balance this protection against the urgent necessity to hold high officials who are corrupt or engage in other criminal conduct accountable for their actions"*.

But, apart from the emergence of divergent approaches to the issue of whether the ombudsman's immunity affects the fight against corruption principle, the role of the citizen and his relationship with the institution should also be highlighted. The weak regulatory agency of the institution and its evolution as an Alternative Dispute Resolution mechanism makes politically motivated attacks rather improbable. Moreover, in many legal orders, the institution shields public administration from judicial review and sanction. The criterion of subsidiarity, most of the times regulated in the ombudsman act⁸⁷⁶, puts constraints on the lodging of a complaint. One of the following conditions shall be met for the fulfillment of this criterion: the absence or the exhaustion of the available legal remedies⁸⁷⁷ and the non-initiation of legal proceedings by the complainant⁸⁷⁸. Yet the rationale of the avoidance of the collision of procedures that refers to the second condition may have serious implications and directly violates the right of access to justice as guaranteed under Article 6 of the

⁸⁷⁵ Article 107 of the Constitution of Kosovo reads as follows: "Article 107. 1. Judges, including lay-judges, shall be immune from prosecution, civil lawsuit and dismissal for actions taken, decisions made or opinions expressed that are within the scope of their responsibilities as judges. 2. Judges, including lay-judges, shall not enjoy immunity and may be removed from office if they have committed an intentional violation of the law. 3. When a judge is indicted or arrested, notice must be given to the Kosovo Judicial Council without delay."

⁸⁷⁶ Ombudsman acts in Bulgaria, Finland, Sweden, as well as those of the regional institutions of Italy and Switzerland, do not provide for the criterion of subsidiarity (Kucsko-Stadlmayer, 2008:20).

⁸⁷⁷ "Partly the exhaustion of all legal remedies (e.g. A, A-Vor, DK, GE, H, IS KS, N, NL, P, RUS, SRB) or at least of all judicial remedies is required (GB, IRL)", (Kucsko-Stadlmayer, 2008:20).

⁸⁷⁸ "In some legal orders the ombudsman is only prohibited from intervening if there is another proceeding pending (administrative proceeding: GR; judicial proceeding: AL, AZ, B, D-Rhe, E, EST, EU, IL, KS, LT, M, MK, SK, UA; administrative or judicial proceedings (CY, HR)". (Kucsko-Stadlmayer, 2008:20). In the revised introductory and explanatory note on the preliminary draft law on the Ombudsman of the Republika Srpska, prepared by the Secretariat of the Venice Commission, commenting on relations of the Ombudsman with the Judiciary, it is noted that: "The Ombudsman should not interfere with pending court proceedings and should not challenge the legality of court judgements". Available at: [http://www.venice.coe.int/docs/1999/CDL\(1999\)054-e.asp](http://www.venice.coe.int/docs/1999/CDL(1999)054-e.asp), date of access: 07.01.2010.

European Convention on Human Rights. The tension between the principle of subsidiarity and the right of access to justice may be highlighted by the Greek case⁸⁷⁹.

In the Greek legal order the initiation of administrative proceedings provide for exclusive, short term deadlines⁸⁸⁰. On the other hand, according to article 3, par. 4 of the ombudsman act⁸⁸¹, the ombudsman does not intervene if there is another administrative proceeding pending. If the complainant recurses to the ombudsman and the conciliation system fails to render justice, or in the ombudsman's wording, fails to persuade administration since nonbinding recommendations are issued, not only does (s)he lose the right of access to justice, but also misses the possibility of reparation for any damage caused by an administrative act⁸⁸². The Joint Opinion (No 318/2004) on the Draft Law on the Ombudsman of Serbia adopted by the Venice Commission⁸⁸³ states that *"the requirement of exhaustion of judicial remedies before the ombudsperson would go counter the very idea of the ombudsperson institution"* and that *"the latter (the ombudsperson) should have the obligation to advise the complainant about legal remedies and about the fact that the complaint to the ombudsman does not prevent the expiry of deadlines for such remedies"*⁸⁸⁴. Moreover, principle IV of the Recommendation No. R (84) 15 of the Committee of Ministers of the Council of Europe to Member States relating to Public Liability, as interpreted in the annexed memorandum, may serve as a supporting argument. According to this principle *"If there is an administrative conciliation system prior to judicial proceedings, recourse to such system should not jeopardize access to judicial proceedings"*⁸⁸⁵. The interpretation of this principle in the memorandum stresses that the provision of conciliation procedures in law, should in no case deprive persons of obtaining compensation through legal action. In other words, if persons are to select

⁸⁷⁹ While the draft law of the Greek Ombudsman was discussed in Parliament, Dimitrios Tsovolas, President of the greek party DIKKI (Democratic Social Movement), underlined the dilemmas posed to complainants and the subsequent deadlock created by such arrangements, since they would finally impede the effective review of the administrative action. (Minutes of Parliament in Plenary Session – Session 101st, March, 20 1997, available at: http://www.parliament.gr/ergasies/praktika/pdf/20_03_97.pdf, date of access: 07.01.2010).

⁸⁸⁰ The litigant has to file a petition/a lawsuit in administrative courts within two months according to article 46, par. 1 of the Presidential Decree 18/1989.

⁸⁸¹ "The Ombudsman shall not investigate cases pending before a court or other judicial authority" Law 3094/2003, article 3 par. 4.

⁸⁸² According to Greek jurisprudence persons may claim reparation only after the issue of a judicial decision that annuls an administrative act.

⁸⁸³ Opinion no. 318/2004, CDL-AD(2004)041 adopted by the Venice Commission at its 61st Plenary Session, Venice (3-4 December 2004) available at: [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL-AD(2004)041-e.pdf), date of access: 07.01.2010.

⁸⁸⁴ This comment takes into account principle (b) of the additional principles concerning the status of commissions with quasi-jurisdictional competence of the so-called Paris Principles embodied in resolution 48/134 on National Institutions for the Promotion and Protection of Human Rights of the General Assembly of the United Nations, according to which they (the commissions) should "inform the party who filed the petition of his rights, in particular the remedies available to him, and promote his access to them". Available at: <http://www2.ohchr.org/english/law/parisprinciples.htm>, date of access: 07.01.2010.

⁸⁸⁵ Recommendation No. R (84) 15 of the Committee of Ministers to Member States relating to Public Liability (adopted by the Committee of Ministers on 18 September 1984 at the 375th meeting of the Minister's Deputies Available at [http://www.coe.int/t/e/legal_affairs/legal_cooperation/administrative_law_and_justice/Texts_&_Documents/Conv_Rec_Res/Recommendation\(84\)15.asp](http://www.coe.int/t/e/legal_affairs/legal_cooperation/administrative_law_and_justice/Texts_&_Documents/Conv_Rec_Res/Recommendation(84)15.asp), date of access: 07.01.2010.

among procedures, especially in serious cases, they run the risk of failing to exercise their legitimate rights.

Posing such dilemmas to the complainants violates the principle of access to justice and indirectly Recommendation No R(84) 15. The institution of the ombudsman should be considered as a complement to courts, an alternative administrative complaint process where harmonization of procedures regarding the possibility of filing a lawsuit in court would guarantee the recourse to the judicial system.⁸⁸⁶ But it is not only the subsidiarity criterion that violates human rights. Another issue that aggravates the disadvantageous position of the citizen towards the institution is that of the unconstitutionality⁸⁸⁷ of the provision of immunity. Not only does it contravene the principle of equality before the law (article 4.1 of the Constitution), but it also prevents citizens from their constitutional right of judicial protection against the ombudsperson and his/her staff. Thus, the principle of proportionality is violated (articles 20 and 25 of the Constitution) when no mechanism for the waiver of non-liability is provided. Furthermore, the absolute non-liability version directly violates the right of access to court under article 6 of the European Convention on Human Rights.

The extension of the immunity provisions: the violation of human rights and the subsequent limitation of the degree of the de facto independence of the constitutional independent authorities from public administration

In this unit we will attempt once again to discuss, as with the case of the Ombudsman earlier on, whether the regulatory agency of the rest of the five constitutional independent authorities in Greece⁸⁸⁸ justifies the measure of the non-liability provisions for the members of their management boards. In recent years, there has been serious debate about whether non-majoritarian institutions constitute a fourth branch of government or they are simply part of the executive (Thatcher and Stone, 2002; Zoller, 2004). Moreover, the delegation of legislative, executive and adjudicatory powers, as enshrined in their constitutive acts, has provoked tremendous criticism regarding the constitutionality of their institutional design. This controversy revolves around the violation of the principle of the separation of powers⁸⁸⁹, and more specifically the delegation of legislative competences since, in this way, the representational function of parliament is restricted. Nevertheless, these institutions rarely dispose of rule-making powers in Europe, contrary to the U.S. paradigm (Yseult, 2007).

⁸⁸⁶ See for example the procedures followed by the U.S Equal Employment Opportunity Commission. available at: http://www.eeoc.gov/federal/fed_employees/lawsuit.cfm, date of access: 07.01.2010.

⁸⁸⁷ Lorena Gonzales Volio (2003) states that the Supreme Court of Panama in its decision of February 12th, 1998, declared unconstitutional the immunity of the Ombudsman and his deputies. Nevertheless, the writer of the paper does not mention the justificatory basis of the decision.

⁸⁸⁸ Apart from the Ombudsman, the rest of the constitutional independent authorities in Greece are: the Supreme Council for the Selection of Personnel (ASEP), the Greek National Council for Radio and Television (NCRTV), the Hellenic Data Protection Authority (HDPA), and the Hellenic Authority for Communication Security and Privacy (ADAE).

⁸⁸⁹ As Rosenbloom (1987) states “In *Panama Refining Co. v. Ryan* (1935) and *Schechter Poultry v. U.S.* (1935), the Supreme Court reached to the heart of the matter by ruling that the constitutional requirements of the separation of powers prohibited delegation of legislative power to administrative agencies in the absence of strict standards for its use”. This opposing stance of the courts in the U.S.A. toward the development of autonomous administrative power, as reflected in jurisprudence, led President Roosevelt to control appointments in the Supreme Court and the Federal Courts.

Greece makes no exception in this European practice. More specifically, the independent authorities interfere indirectly with the legislative process, mainly through recommendations to the competent ministries for the introduction of new legislation and amendments to existing laws or with the issue of secondary legislation published in the official journal⁸⁹⁰. Regarding this second aspect of legislative activity, article 43.2 of the Constitution on legislative delegation⁸⁹¹ and article 26 on the separation of powers⁸⁹² currently in force, restrict the legislative initiative of these authorities to technical matters. There is no clear definition of the term, but it implies that the authorities have a regulatory power of technical nature that permits them to define the rules under which they are authorised to enforce them. On the other hand, in cases when special legislative authorisations are provided for the issue of presidential decrees to regulate on matters of a non-technical character, ministerial participation and elaboration of the decrees by the Council of State⁸⁹³ are added with all relevant implications. Thus, the degree of delegation of rulemaking powers to the independent authorities is not only a determinant of their independence from the political decision-makers⁸⁹⁴, but it may also affect the legitimisation of immunity provisions for the members of their management boards. In this sense, limited legislative competences delegated to the independent authorities equate them, more or less, with a common agency of the executive.

The rationale of the legitimacy for setting-up these authorities appears to support this view. Public acceptance would be guaranteed with the involvement of experts and the exclusion of political decision-makers from certain decisions in this new bureaucratic scenery (Gill, 2002). It could be argued that the establishment of these authorities came to address the lack of core administrative values in the traditional executive branch. The need for the implementation of the principles of impartiality in decision-making, of non-discrimination, and of good administration in general, gave birth to the substitution of the old executive paradigm for an analogous bureaucratic

⁸⁹⁰ The Greek National Council for Radio and Television (NCRTV) is the only authority that enjoys clear rule-making powers (Yseult Marique, 2007; Kozyris, 2003). According to article 15.2 of the Greek Constitution: "Radio and television shall be under the direct control of the State. The control and imposition of administrative sanctions belong to the exclusive competence of the National Radio and Television Council, which is an independent authority, as specified by law". Nevertheless, the executive curtails this constitutional provision, and takes the legislative initiative. The NCRTV decided upon a majority vote that it has the competence to judge whether relevant legislation is constitutional (Kozyris, 2003).

⁸⁹¹ According to article 43.2 of the Constitution: "The issuance of general regulatory decrees, by virtue of special delegation granted by statute and within the limits of such delegation, shall be permitted on the proposal of the competent Minister. Delegation for the purpose of issuing regulatory acts by other administrative organs shall be permitted in cases concerning the regulation of more specific matters or matters of local interest or of a technical and detailed nature".

⁸⁹² According to Article 26.1 of the Constitution: "The legislative powers shall be exercised by the Parliament and the President of the Republic.

⁸⁹³ According to article 95.1.d of the Constitution: "The jurisdiction of the Council of State pertains mainly to: . . .d. The elaboration of all decrees of a general regulatory nature".

⁸⁹⁴ Gilardi's Agency Independence Index contains, among others, the dimension of the rulemaking competences of the agencies in order to measure their formal independence from the political decision-makers. Moreover, Majone and Surdej (2006) argue that this dimension is of high relevance and comment that: "It should be noticed that Gilardi's Agency Independence Index has one methodological flaw: it treats all dimensions as equally significant for independence. This is obviously not true. If an agency has no rulemaking powers, if it is directly supervised by the political principal, then its independence is seriously weakened, even if it has high scores on other dimensions".

mechanism headed by experts and not by ministers. Consequently, the respect for certain general principles of administrative law and the concern to protect the constitutional rights of the individuals are reflected in the exercise of their decision-making powers in their multiple facets: inspections, controls, sanctions, interpretation of legislation, issue of codes and guidelines.

Odegard (1954) demystifies the debate over the mixture of powers in independent agencies, and sets the problem of their accountability: *“The mixture of executive, legislative, and judicial powers in these bodies has caused no end of confusion among experts accustomed to a neat tripartite division of political powers . . . But there is scarcely an agency or official of the government that does not in one way or another exercise two or more of these “distinct” powers. Wherever an official has discretion to decide controversies among persons or between private persons and the government, he may be said to exercise judicial power; wherever he has power to issue rules or regulations to which penalties for violation are attached, he exercises legislative power; and wherever he has power to direct, or control, conduct in terms of these decisions or rules, he may be said to have executive power. Mean is the official, and humble indeed in his station, who does not in some measure combine these powers in the performance of his duties. To call them quasi-judicial and quasi-legislative may help the judicial conscience to rationalize departure from fundamental doctrine, but to justify the “independence” and hence the practical “irresponsibility” of an agency of government because it exercises quasi-judicial or quasi-legislative power may be to establish a principle which, if extended to all officials or agencies whose powers may be similarly described, can undermine the democratic principle that public officials –including bureaucrats called commissioners - must be politically responsible to the people through their elected representatives”*. Thus, Odegard equates independent agencies with other governmental bodies in respect of the powers they exercise, on the one hand, and criticises the lack of political responsibility in the name of independence, on the other. Yet legal responsibility to the courts precedes accountability to parliament, and could even make the latter redundant due to its deterrent character.

Within this context, the introduction of non-liability provisions for the members of the independent administrative authorities regulating government in Greece creates a human rights paradox, as is the case with the Greek Ombudsman. These authorities regulate the citizens-State relationship, *“a relationship where the state risks not being neutral or impartial towards citizens”* (Yseult Marique, 2007). What the human rights paradox rests on is that while these authorities protect citizens’ fundamental rights against encroachment by public administration, the establishment of non-liability provisions for their members violates the right of access to court under article 6 of the European Convention on Human Rights. Thus, impunity might lead either to inertia or reduce the independence of these authorities from their regulatees. Depriving citizens of the right of access to court inevitably insinuates a relationship of complicity between regulator and regulatee. Interestingly enough, such provisions are not provided for in business regulation.

Non-liability does not promote the necessary neutrality on the part of the authorities towards public administration. Consequently, this creates a tension between the authorities and the citizens. It could be described as an external tension. Yet, an internal tension could also be identified, and rests upon the unequal relationship

developed between the members enjoying immunity, and the personnel that are responsible in their capacity as civil servants. This internal tension has two aspects. The first one deals, once more, with the violation of the personnel's human rights. The administrative functions of the members of the authorities, as assigned to them by law, are not excluded from the scope of immunity. Consequently, the personnel are deprived of their right of access to court whenever the members' decisions fail to comply with law. The second aspect revolves around possible pressures that members of the authorities might put on the personnel regarding the way they perform their duties. Therefore, the members of the authorities might violate article 261 of the Greek Penal Code that refers to the offence of exhortation of subordinates by their superiors to commit the offences of articles 235 to 260 of the said code without running the risk of being punished.

Both aspects relating to the internal operation of the authorities might, in turn, trigger the external tension, the relationship of the authorities with citizens. Consequently, the immunity regime might enable the development of a favourable stance of the authorities towards public administration, thus reducing their independence from the regulatees. A paradigm might help us think of these possible tensions created by such arrangements. The Human Rights Defender of Armenia requested from the Venice Commission an opinion on the amendment of Article 23(5) of the Law on Human Rights Defender. The proposed amendment aimed to deprive the personnel of the agency of the immunity they enjoyed. The justificatory basis for the limitation of the personnel's immunity was the fight against corruption, and more specifically principle 6 of the Committee of Ministers' Resolution 97(24) on the Twenty Guiding Principles for the Fight against Corruption. Despite the fact that GRECO in its compliance report for Armenia did not recommend the abolition of the immunity of the Defender's personnel, Principle 6 might have been invoked as a pretext. A possible tension in the relationship between the Defender and his personnel might have given rise to the proposal of the amendment of Article 23(5). Yet, the Defender did not propose the abolition of the immunity he himself enjoyed. Thus, we could think of two possible scenarios. According to the first one, the Defender put pressure on the personnel regarding the way they performed their duties, and they, in turn, refused to comply with illegal orders. According to the second one, the personnel got involved into corrupt behaviour while exercising their duties due to the regime of impunity.

Expertise and legal liability: Reinforcing the independence of the constitutional independent authorities from public administration

The absolute character of non-liability enjoyed by the high-ranking public functionaries of the Greek constitutional independent authorities directly violates the citizens' rights, on the one hand, and shields public administration from the regulators' conflict-seeking stance. In other words, if there were no immunity provisions, the citizens' right of access to court would operate as a deterrent, and would inevitably detach the authorities from the interests of public administration, that is, from the whole political system. Non-liability is a parameter that reduces independence from public administration, but not vice versa. The argumentation that the individuals would have recourse to court simply to revenge officials, on the one hand, and that there would be a diversion of energies from the proper performance of duties to the deflection of claims, on the other, rather downgrade the situation. Furthermore, it should be noted that the basic criterion for the appointment of these

high-ranking public functionaries is their expertise in the field of regulation of the authorities. The notion of expertise, as a predominant feature of these authorities, enables us to further develop our argumentation regarding its relationship with the legal liability of their high-ranking public functionaries.

In order to better support our view, we will adapt our case to the rationale of the decision 3/2009 of the Hellenic Supreme Court of Civil and Penal Law. Thus, the principle of discrimination in civil liability between high-ranking public functionaries and mere civil servants introduces the concept of liability based upon expertise. Likewise, the members of the authorities should not be exempted from civil, penal and disciplinary liability due to the expertise criterion. The principle of discrimination and the liability non-exemption based upon the expertise criterion could be paralleled with the first of the four maxims that Adam Smith recommended in respect of what a good tax should conform to: "*The subject of every State ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State.*" (Smith, 1776)⁸⁹⁵. Thus, tax contribution should be equal to one's economic abilities. Likewise, legal liability should be analogous to one's professional qualifications. No matter how simplistic this paradigm appears, immunity provisions in the institution of the constitutional independent authorities constitute discrimination and violate the right of equality before the law since they are not based on reasonable and objective criteria. Indeed, discussions in the Greek Parliament proved that the argumentation of the supporters of the measure was misleading and vague disregarding its further implications. Moreover, theoretical approaches and legal opinions on the immunity regime in the institution of the ombudsman seem to move towards a mixture of inexact equations of the ombudsperson with deputies and international organisation officials.

The legal responsibility of the high-ranking public functionaries of the five Greek constitutional independent authorities would become the demarcation line between the agencies and public administration. Liabilities should be identified in relation to the nature of the powers exercised by the authorities. Furthermore, the offences committed by civil servants and judges in the discharge of their duties, as provided for in the Greek penal code, should be taken into consideration. As for civil liability, article 23.4 of the Recommendation CM/Rec(2007)7 of the Council of Europe Committee of Ministers to member states on good administration opens the road to direct civil action against public officials⁸⁹⁶. Interestingly enough, in the last revision of the Constitution, the government proposed the revision of article 104⁸⁹⁷ of the

⁸⁹⁵ Adam Smith (1776), *An Inquiry into the Nature And Causes of the Wealth of Nations*, Book Five Of the Revenue of the Sovereign or Commonwealth. CHAPTER II Of the Sources of the General or Public Revenue of the Society PART 2, Of Taxes, available at: <http://www.adamsmith.org/smith/won-b5-c2-pt-2.htm>, date of access: 07.01.2010.

⁸⁹⁶ Article 23.4 reads as follows: "*It shall be possible, where appropriate, for public authorities or private persons adversely affected to issue legal proceedings against public officials in their personal capacity*". Available at: [http://www.coe.int/t/e/legal_affairs/legal_cooperation/administrative_law_and_justice/Texts_&_Documents/Conv_Rec_Res/Rec\(2007\)7_en.pdf](http://www.coe.int/t/e/legal_affairs/legal_cooperation/administrative_law_and_justice/Texts_&_Documents/Conv_Rec_Res/Rec(2007)7_en.pdf), date of access: 07.03.2010.

⁸⁹⁷ Explanatory Report on the proposal of New Democracy (party of the Majority) for the revision of provisions of the Constitution, May 11th, 2006 available at: <http://www.parliament.gr/ergasies/nomosxedia/EisigisiEpitropon/g-anasy-eis.pdf>, date of access: 07.01.2010.

constitution. The proposal provided for the obligation of civil servants to serve citizens efficiently and effectively, whereas they would be personally responsible for any damages resulting from their wrongful acts that may cause damages to the public property. It is obvious that strained public budgets in most countries nowadays, apart from deterrence, may play a crucial role in the formulation of relevant policies. The revision of the article was not approved, and the MPs wrongfully argued that it was redundant since the direct civil responsibility of civil servants was provided for in article 105 of the Introductory Law to the Greek Civil Code⁸⁹⁸. Yet, as we have already mentioned earlier on, the system of vicarious liability of the administration⁸⁹⁹ was introduced in the Civil Servants' Code in 1951, and thus the second verse of article 105 of the Introductory Law to the Greek Civil Code was amended.

Greece: a consolidated democracy or a polity traumatised by immunity arrangements beyond “the degree necessary in a democratic society?”⁹⁰⁰,

Since the end of the Civil War and until the restoration of democracy in Greece in 1974, the country suffered under authoritarian regimes that had restricted political, civil and social rights. In the economic sphere, the country did not follow the West-European paradigm of the accumulation of capital through competition in the market place. Instead, political patrons granted loans to industrials on a clientelistic basis. The post-authoritarian period is characterised by reforms and significant progress in the citizens' rights as a result of democratisation and European integration. Nevertheless, state bureaucracy is “highly inefficient and corrupt”. (Mouzelis and Pagoulatos, 2004). A form of bureaucratic clientelism was developed⁹⁰¹ (Lyrantzis, 1984). The economy is not export-oriented, and business activity aims at gaining public contracts. This struggle for the control of public works interferes with parliamentary operation, thus weakening its autonomy (Mouzelis and Pagoulatos, 2004). Unfortunately, Europeanization has not yet eliminated *tiers mondiste* aspects of the political, administrative and, economic spheres. It is not a coincidence that Greeks agree that corruption is a national problem⁹⁰². The country seems to have been trapped in a

⁸⁹⁸ Minutes of the Committee on the Revision of the Constitution, April 2, 2008. Available at: <http://www.parliament.gr/ergasies/praktika/pdf/essyn02042008.pdf>, date of access: 08.01.2010.

⁸⁹⁹ The concern that injured parties could not practically get compensation directly from public servants for any illegal acts or omissions committed in the discharge of their duties led to the regime of vicarious liability. As Odegard (1954) states: “*The theory that a public officer was individually responsible for damages resulting from his wrongful acts may have helped to inspire caution and respect for the rights of others, but it was cold comfort to those actually damaged to know that their only redress was a damage suit against impecunious bureaucrats*”.

⁹⁰⁰ The part of the sentence in quotation marks is a citation from Principle 6 of Resolution (97)24 of the Council of Europe Committee of Ministers on the Twenty Guiding Principles for the Fight Against Corruption: ‘to limit immunity from investigation, prosecution or adjudication of corruption offences to the degree necessary in a democratic society’. Available at: [http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20\(97\)%2024%20COE.pdf](http://www.anticorruzione.it/Portals/altocommissario/Documents/Atti%20internazionali/risoluzione%20(97)%2024%20COE.pdf), date of access: 08.01.2010.

⁹⁰¹ Mouzelis and Pagoulatos state that: “*It is not surprising, therefore, that informal, quasi-clandestine networks of clients, state bureaucrats and politicians came to permeate the social pyramid from top to bottom, undermining the universalism upon which the rule of law is premised. All this took place at the expense of citizens unable or unwilling to become involved in such dealings*” (Mouzelis and Pagoulatos 2004).

⁹⁰² Full Report Special Eurobarometer, “Attitudes of Europeans towards Corruption”, Fieldwork: September-November 2009, Publication: November 2009. Available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_325_en.pdf, date of access: 08.01.2010. In Transparency International Corruption Perceptions Index 2009, it is stated that: “*Greece*

constant transitional phase, and its authoritarian past indirectly survives through the extension of immunity arrangements in the last decade.

The legal liability of Ministers connected with the performance of their duties as provided for in article 86 of the revised Constitution in 2001 and its executive law 3126/2003⁹⁰³, still provokes severe criticism⁹⁰⁴. The legislative framework appears to be extremely protective for multiple reasons: the procedure for the prosecution is complex and cumbersome; the treatment of the accomplices is discriminatory; the establishment of a short statute of limitations period (five years from the commitment of the offence) that violates article 29 of the United Nations Convention against

which registered a substantial drop in score from 4.7 in 2008 to 3.8 this year, is a particularly concerning case. The 2009 score reflects insufficient levels of anti-corruption enforcement, lengthy delays in the judicial process and a string of corporate corruption scandals which point to systemic weaknesses. Greece's poor score shows that joining the EU does not automatically translate into a reduction in corruption. Immediate and sustained efforts are required to ensure the country lives up to acceptable levels of transparency and accountability. http://www.transparency.org/policy_research/surveys_indices/cpi/2009/regional_highlights, date of access: 08.01.2010.

⁹⁰³ “The legal liability of Ministers is established in Article 86 of the Constitution, as well as, in Law 3126 of 19.3.2003 which specifies the content of this constitutional provision. The law makes a distinction between offences – misdemeanours and felonies - committed by the Ministers or Deputy Ministers during the exercise of their duties and offences committed outside the exercise of their duties. The former are tried, following the proceedings established in Article 86 of the Constitution, by a special court (even if such Minister has no longer this capacity), while the latter by competent courts, pursuant to the provisions of the law 3126/2003. By virtue of that law, preliminary investigation, pressing of criminal charges, preliminary examination or examination against a Minister for punishable acts, shall not be carried out without the previous resolution by the Plenary Session of the Parliament. If, during, another administrative investigation, preliminary investigation, preliminary examination, or examination, evidence arises, which relates to punishable acts as mentioned above, the same shall be promptly forwarded to the Parliament by the person who conducts the investigation, preliminary examination or examination. In no case the person conducting the investigation or examination may evaluate the evidence related to possible Ministers’ criminal liability. The criminal proceedings shall be instituted as long as it is requested in writing by at least thirty (30) members of the Parliament. The Parliament, shall, by a resolution passed by the absolute majority of all its members, form a special parliamentary committee, to conduct a preliminary investigation, with all powers of a Public Prosecutor of the First Instance Court. It establishes a motion for the pressing of criminal charges or not. The resolution of the Parliament in Plenary Session on whether to press criminal charges or not shall be passed by the absolute majority of all members of Parliament. If the Plenary Session of the Parliament rejects the motion for the pressing of criminal charges as obviously unfounded, any further motion concerning the same persons and the same acts shall in all cases be inadmissible, even if it has a different legal characterization” (excerpt from: GRECO, First Evaluation Round, Compliance Report on Greece, adopted by GRECO at its 21st Plenary Meeting, Strasbourg, 29 November – 2 December 2004) Available at: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1\(2004\)2_Greece_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1(2004)2_Greece_EN.pdf), date of access: 08.01.2010.

⁹⁰⁴ Transparency International Greece addressed six proposals to the Greek parties before the general elections of October 4th 2009. The second proposal referred to Ministers’ responsibility and the necessity to extend the period of the statute of limitations. It recommended that it should be equated to that provided for in common penal law. The new law 3961/2011 on Ministers’ responsibility, promulgated after the outbreak of the Greek debt crisis, settled the issue by abolishing the period of limitation. However, the amended clause is irrelevant since the period of limitation provided for in article 86, par. 2 for the initiation of criminal prosecution remains valid. More specifically, article 86, par. 2 and 3 of the Constitution provides that “*The Parliament may exercise its competence pursuant to paragraph 1 until the end of the second regular session of the parliamentary term commencing after the offence was committed. The Parliament may at any time revoke its resolution or suspend the prosecution, preliminary proceedings or main proceedings, according to the procedure and majority provided in the first section of this paragraph*”.

Corruption (Resolution 58/4/31.10.2003) ratified by law 3666/2008⁹⁰⁵; the Parliament may at any time revoke its resolution. GRECO in its Compliance Report on Greece in 2003 pinpointed the cumbersome procedure even in cases of preliminary investigation, and recommended amendments recognising though that the initiation of such procedures could not be made before 2006 due to constitutional obstacles. Interestingly enough, no relevant proposals had been made during the constitutional revision of 2006. Moreover, the proposed amendments regarding issues on the MPs' immunity had been rejected by the Parliament during the constitutional revisions of 2001 and 2006. Yet, such legal arrangements might raise doubts over the transparency and accountability of the political system⁹⁰⁶.

But despite criticism, immunity arrangements have spread to public services or public collective bodies beyond suspicion. More specifically, according to paragraph 6 of article 1 of law 3207/2003 "Regulation of issues regarding the Ministry of Culture and other provisions", the clauses of the second and third verse of the second paragraph of article 1 of law 3094/2003, that is, those relating to the immunity of the Greek Ombudsman and his deputies, apply to the President and the members of the advisory boards of articles 49, 50 and 51 of law 3028/2002. These collective bodies are the Local Councils of Monuments, the Central Council of Recent Monuments, and the Council of Museums. Neither the Explanatory report of the draft law, nor the scientific report of Parliament gives reasons for the necessity of the measure. A second case refers to article 18 of law 3728/2008 "Service of Market Supervision and other provisions". According to this article, the Special Secretary and the staff of the service are not prosecuted and sued for any opinion expressed in the discharge of their duties, unless they acted intentionally or violated the secrecy of the information that came to their knowledge in the performance of their duties. The Economic and Social

⁹⁰⁵ According to Article 29 of the United Nations Convention against Corruption: "*Each State shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice*".

⁹⁰⁶ During the period 1974-2005 Parliament received 808 requests for the waiver of parliamentary immunity. However, only five deputies have had their immunity waived (Source: "To Vima" Newspaper, 19.06.2005) available at: <http://www.tovima.gr/default.asp?pid=2&ct=32&artid=166769&dt=19/06/2005>). This extremely low ratio of immunity waivers suggests that peer solidarity is rather strong, and the MPs show reluctance to expose their colleagues to the law. The European Court of Human Rights, consistent with its jurisprudence in the cases of *Cordova v. Italy* 30.01.2003 and *DeJorio v. Italie* 3.6.2004, convicted twice Greece in the cases *Tsalkitzis v. Greece* (16.11.2006) and *Syngelidis v. Greece* (11.02.2010). The Court held that the negation of waiving the immunity of deputies for offences that are not related to the performance of parliamentary duties in the strict sense, deprives plaintiffs-citizens of the right of access to justice, thus violating Article 6 par. 1 (right to a court) of the European Convention on Human Rights. Available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Tsalkitzis%20%7C%20Greece%20%7C%2011801/04&sessionid=44469450&skin=hudoc-en>, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Syngelidis%20%7C%20v.%20%7C%20Greece&sessionid=89497970&skin=hudoc-en>, date of access: 14.4.2010. The last conviction seems to have provoked the amendment of articles 83 par. 3 and 4 of the Standing Orders of Parliament in 2010 (Government Gazette, vol. A, no 139, 10.08.2010). According to the new regulation, the Parliament's Ethics Committee should investigate whether the act against which immunity is requested to be lifted is clearly connected with the MP's political or parliamentary activity or whether the prosecution, lawsuit, or accusation conceal political objectives, otherwise it should recommend the waiver of the immunity. The report of the Committee should be justified.

Committee⁹⁰⁷ in its opinion on the draft law considered the measure to be excessive, and suggested the withdrawal of the clause.

Two legislative attempts to establish immunity regimes failed. First, the draft law on “*Inspector General of Public Administration, upgrade of the Corps of Public Administration Inspectors-Controllers and of the Coordinating organ of Inspection and Control*” included a clause to extend the Greek Ombudsman’s immunity to the Public Administration Inspector General. The scientific report of Parliament expressed reservations⁹⁰⁸. It stressed that the content and the legal form of the competences of the Inspector General differed from those of the Greek Ombudsman – the latter issues non-binding decisions- , and suggested that more offences should be included in the clause or that the proposed regulation should be further justified. Second, the Minister of Development in an irrelevant draft law on the “Promotion of the coproduction of two or more useful forms of energy; Regulation of issues regarding the Hydroelectric Works of Mesochora and other provisions” that was submitted to Parliament on November 21st 2008, attempted to pass an amendment regarding the immunity of the President, the members, and the staff of the Hellenic Competition Commission. The amendment provided that the said persons were not criminally or civilly responsible for their acts or omissions in the discharge of their duties, unless they acted intentionally⁹⁰⁹. The amendment was finally withdrawn.

Phenomena of extending immunity provisions or failed legislative initiatives to do so, beyond “the degree necessary in a democratic society” traumatise the polity, and remind people of the authoritarian practices of the past.

⁹⁰⁷ “The only formal consultative mechanism is the tripartite Economic and Social Committee (ESC). It was formed in 1994 to represent interest groups in Greece: employers and businessmen as one group; employees and civil servants as another; and citizens, local authorities, independent professions as the third. The separate views of each of these three groups are given equal treatment and are all distinct from State power. The role of the ESC is to promote “social dialogue” through the formation of common positions on issues concerning society as a whole. The ESC expresses a reasoned opinion on important issues related to labour relations, social security, taxation measures, and matters of socio-economic policy in general. The procedure involves the competent ministry requesting the opinion of the Committee. The committee issues its view within 30 days. The ESC reviews all “important” regulations, but the criteria for an important law are unclear, and the Council has no enforcement powers. As a result ministers choose when they want to consult the ESC and if they wish to accept its opinion”. Excerpt from: OECD (2001), Government capacity to assure high quality regulation in Greece, p. 24-25, Available at: <http://www.oecd.org/dataoecd/48/36/2475366.pdf>, date of access: 08.01.2010.

⁹⁰⁸ Scientific Report on the draft law “Public Administration Inspector General, upgrade of the Corps of Public Administration Inspectors-Controllers and of the Coordinating organ of Inspection and Control”, October 29th, 2002. Available at: <http://www.parliament.gr/ergasies/nomosxedia/EkthesiEpistimonikis/G-EPIELE-EPIS.pdf>, date of access: 08.01.2010.

⁹⁰⁹ Source: Newspaper, To paron tis Kyriakis, article entitled “Stop” to the immunity of the Competition Commission” dated 18-01-2009 , available at: <http://www.paron.gr/v3/new.php?id=36885&colid=&catid=27&dt=2009-01-18%200:0:0>; Other Information available at Websites: <http://www.stopcartel.gr>, <http://www.capital.gr/news.asp?id=632520>, date of access: 08.01.2010.

Conclusion

The rationale for the establishment of independent administrative authorities regulating government is based upon the necessity to create a barrier against the erosion of individual constitutional rights by the modern administrative state. The protection of these fundamental human rights, as prescribed in national legislation or ratified international conventions, is entrusted to experts that “are required to be cognizant of constitutional and judicial values”⁹¹⁰ in the discharge of their regulatory functions. Their main concern should be neutrality towards public administration, and their legal responsibility guarantees that citizens will have the right to control it. These high-ranking public functionaries enjoy personal and functional independence as prescribed in the agencies’ constitutive acts in order to ensure their separateness from the political system, thus representing a depoliticised mechanism. However, the concept of independence is not a synonym for irresponsibility. Immunity arrangements, contrary to what is often argued, do not promote independence from the political decision-makers, namely, the alter ego of public administration.

It is no coincidence that the introduction of such provisions for the members of the five constitutional independent authorities provoked tremendous reaction on the part of the Union of Greek Prosecutors and scepticism on the part of a number of MPs when the draft laws were discussed in Parliament. One major criticism concerned the constitutionality of the provisions. Not only do they contravene the principle of equality before the law (article 4 of the Constitution), but they also prevent citizens from their constitutional right of judicial protection against these high-ranking public functionaries. Thus, the principle of proportionality is violated (articles 20 and 25 of the Constitution) since no mechanism is foreseen for the waiver of their immunity. Furthermore, they restrict the right of access to court under article 6 of the European Convention on Human Rights. Criticism also dealt with the issue of integrity. Providing immunity assumes that a certain category of people is just and unwilling to harm others. Plato in his Republic states: “*And this we may truly affirm to be a great proof that a man is just, not willingly or because he thinks that justice is any good to him individually, but of necessity, for wherever any one thinks that he can safely be unjust, there he is unjust*”⁹¹¹.

The survival and function of governments throughout space and time have been entrusted to bureaucracies. Yet government has to be both effective and democratic. Enforcing responsibility upon the bureaucracy is a means to counterbalance the abuse of power which sooner or later might appear when external punitive controls are lacking. In a polity in which the people are sovereign, popular control over administrative action guarantees the implementation of public policies as prescribed in law. Since a significant part of the decision-making process has been transferred to non-majoritarian institutions, those at the top of their hierarchies should be held responsible for their actions, in the same way as Isocrates argues in his Areopagiticus for those at the top of public affairs: “26...*In short, they had made up their minds that*

⁹¹⁰ David Rosenbloom, (1987), Public Administrators’ Liability: Bench v. Bureau in the Contemporary Administrative State”, *Public Affairs Quarterly*, Winter, p. 382.

⁹¹¹ Plato, The Republic, Book II, translated by B. Jowett, available at: www.sharebooks.ca, date of access: 08.01.2010.

the people, like an absolute master, ought to control the public offices, punish offenders and settle disputed points, and that those who were able to enjoy ease and possessed sufficient means should attend to public affairs like servants and, 27. if they acted justly, should be praised and rest contented with this recognition of their services, while, if they managed affairs badly, they should meet with no mercy, but should be visited with the severest penalties. And how would it be possible to find a democracy more just or more secure than one which set the most influential citizens at the head of public affairs and at the same time invested the people with sovereign control over these same officials?⁹¹²”

Immunity arrangements represent an anachronistic practice in democratic societies that strive for transparency and accountability. The legal responsibility of those handling delicate human rights issues against their violation by public administration is an indispensable part of the battle to strengthen democracy and enhance public trust in the institutions.

⁹¹² Isocrates, Areopagiticus, The J. A. Freese Translation, available at: <http://fxylib.znu.edu.cn/wgfljd/%B9%C5%B5%E4%D0%DE%B4%C7%D1%A7/pw/isocrates/pwisc7.htm>, date of access: 08.01.2010.

CONCLUSION

Summarizing the main findings derived from the autonomous study of the dyads

The structure of the dissertation corresponds to a tetralogy. In each chapter there has been an attempt to grasp and reconstruct diachronically institutional aspects and empirical evidence of the reality of the Greek constitutional independent authorities as determined by the four principal-agent dyadic presentations. Each dyad had its own autonomous story to tell with respect to the degree of the de facto independence of the constitutional independent authorities from their regulatees-public administration. This relationship was assessed qualitatively through the construction of a chain of principal-agent relationships in regulation inside government, whereas aspects of their formal independence were simultaneously challenged and renegotiated. The research extends chronologically from the establishment of each one of the constitutional independent authorities to December 31, 2010. The end of the research incidentally coincided with the beginning of the Greek crisis that will inevitably affect and transform these authorities in new ways in the future. Therefore, a new updating and time-comparative study would be of interest in a few years.

The Constitution of 2001 vested the independent authorities under study with the constitutional guarantee of independence in order to protect citizens against the encroachment of their constitutional-human rights by the state. As state interests become the field of regulation, the human rights regulators have the mission to limit and prevent any action facilitating the development of forms of authoritative state behaviour with respect to the constitutional-human rights under protection. Each one of the principal-agent dyads facilitated the assessment of the regulators' levels of commitment to their mission, that is, their degree of resistance towards their regulatees. The low levels of certain aspects of the formal independence coinciding with the first, second, and fourth dyadic presentations, seem to undermine and annihilate the concept of formal independence itself, and thus negatively impact on the de facto independence from the political decision-makers-regulatees.

The theoretical part of the first dyad, that is, the members' selection mechanisms, viewed and analysed from a formalistic perspective, led to the conclusion that the appointments clauses diachronically proved to be unconstitutional and non transparent. The final adoption of the legislative prerogative in the selection mechanism, as dictated by the functionalist argumentation infiltrated in the relevant commitments to International Governmental Organisations, the relevant jurisprudence, and the predominant legal scholars' views, seems to unjustifiably facilitate the aggrandizement of the legislative branch of government. On the other hand, consensual practices leading to unanimous decisions create collusion and an unorthodox collective responsibility imposed on the entire political system, a process which is inherently incompatible with the democratic values and principles. The empirical part of the dyad revealed signs of party representativeness in the composition of the authorities. But even if we accept the widespread view expressed by the political decision-makers and theorists that a member's party affiliation is not synonymous with party representation in the authorities, the members' high levels of involvement in public life prove the existence of a system-friendly elite. These findings, that is, strong involvement in public life, are similar to those of Thatcher's

(2005), albeit differently interpreted. In other words, scholars may differ in their evaluation over the role of experts as independent players in the regulatory state.

The internal hierarchical relationship, that is, the members' autonomy in the selection of the administrative and scientific personnel of the authorities, seems to have equally failed in many respects. First, the institutional design of the selection mechanisms gave priority to secondments and transfers, that is, a clientelistic mechanism, instead of direct hirings in the case of the Supreme Council for the Selection of Personnel and the Greek Ombudsman, thus ending up to a low relational distance between regulator and regulatee. Second, flawed selection clauses seem to have also served clientelistic purposes, thus testing the legality of the members' administrative action in the case of the Supreme Council for the Selection of Personnel. Third, the selection processes either in cases of transfers and secondments or in cases of direct hirings are not systematized and transparent compared to the guarantees offered by the general recruitment system in the public sector. Fourth, secondary education graduates are unjustifiably high within the category of the administrative personnel, whereas the Supreme Council for the Selection of Personnel operated for fourteen years with no scientific personnel. The cases of university graduates filling positions of the scientific personnel of the Greek Ombudsman probably reduce the effectiveness of organizations based on expertise. Fifth, the significant number of negation of appointments and resignations on the part of the scientific personnel probably lead to the conclusion that the independent authorities are not highly esteemed with respect to the mode of their operation as well as the career perspectives they offer. And sixth, the members of the scientific personnel present significant involvement in public life, whereas the cases of secondments of the scientific personnel of the Greek Ombudsman to political posts reduce the credibility of the institution.

The external at arm's-length relationship sought to identify cases of regulatory failure through the implementation of different approaches and tools for each authority. It is far from clear that in the cases under study the regulator failed to serve the public interest, thus safeguarding the regulatees' interests. Under such circumstances, the regulator operates in a discrete, probably misleading manner in the struggle not to exceed the limits of what would be tolerable and acceptable by the regulatees in their double role. Beyond recourse to courts, the citizens' lack of intervention in order to control and preventively block regulatory capture through the members' legal responsibility is represented and analysed in the external accountability relationship. The adoption of immunity provisions for the members of the constitutional independent authorities might predispose future regulatory action in a rather regulatee-friendly manner contrary to the views supporting the guarantees of integrity offered by such arrangements. Therefore, the human rights paradox created traumatizes the democratic order and, consequently the citizens' trust in government.

The interaction of the dyads

Beyond the main findings derived from the autonomous study of the dyads, this concluding section rather seeks to approach the issue of the interaction of the dyads with respect to the regulators' de facto independence from their regulatees-public administration. In other words, there will be an attempt to achieve an overview aiming to assess whether one dyad affects the other, thus detaching it from its previous autonomous situation. However, the role of the first dyad is considered as crucial both

theoretically-institutionally and empirically since it could be imaged as the first tile of a domino game that may inevitably carry with it the rest of the tiles. The delegatory relationship between the principals-political decision-makers in a double role and their agents-regulators is theoretically challenged in formalistic terms. In other words, the legislature's exclusive appointive power is considered as unconstitutional, thus violating the orthodoxy of the separation of powers as arranged and perceived in the Greek constitutional tradition. As a result, a directorial system co-exists with the official majoritarian system. Thus, the legislative aggrandizes and encroaches on the power of the executive without leaving space for the necessary democratic control incarnated through the mechanisms of the opposition and parliamentary review. On the other hand, the delegation of the members' selection mechanism to the parliamentary organ of the Conference of Presidents equally raises concerns over its constitutionality, parliamentary representativeness, and transparency. Under such circumstances, these authorities remain unchecked, and simultaneously are under hostage to the whole political system.

In our opinion, if formalistic terms are applied, legislative appointment does not guarantee a high degree of de facto independence of the independent authorities from the political decision-makers-public administration; quite the contrary. Indeed, the empirical part of the delegatory relationship proved our point. However, the Greek scholars and jurisprudence, MPs in discussions in Parliament, as well as relevant texts relating to commitments to International Governmental Organisations apply a purely functionalist approach based on the concepts of consensus and popular sovereignty considered as virtues encompassed in the nature of the legislature. According to these views, the (formal) independence of the independent authorities from the executive, that is, the political decision-makers, is guaranteed through the exclusive legislative appointive power by a qualified majority of votes. However, the pillar concepts - consensus and popular sovereignty- seem tricky. As Busino (1987) states in relation to popular sovereignty:

In order to acquire support on solid bases, it is necessary for power to dispose of a very sound judicial and moral infrastructure, an ideological and administrative apparatus, in other words, a political pattern able to firmly maintain the various components of society. Today society is engendered in the abstract and tricky principle of popular sovereignty⁹¹³.

On the other hand, the concept of consensus as pattern of democracy was coined by Sir Arthur Lewis, an economist rather than a political scientist. Lijphart (1999), a supporter of consensus democracy, describes the differences between the majoritarian and consensus models of democracy as follows:

A closely related difference is that the majoritarian model of democracy is exclusive, competitive, and adversarial, whereas the consensual model is characterized by inclusiveness, bargaining and compromise.

⁹¹³ The abstract was translated from French by the author.

However, Follesdal and Hix (2006) insist on the guarantees offered by the majoritarian model, that is, the traditional indispensable democratic aspects of the opposition and governmental responsibility⁹¹⁴.

The commitments to International Governmental Organisations brought about radical changes in the appointments clauses of the constitutions of their member states that inevitably distorted the political system, that is, the majoritarian model previously reserving the absolute appointive power to the executive. On the contrary, the U.S. still remains faithful to its own constitutional checks and balances orthodoxy. However, were such consensual practices as dictated by the appointments clauses unknown to Greek politics? In 1988 Greece was considered “after New Zealand and the United Kingdom, the closest approximation of the majoritarian model” the most eccentric case among the four Southern European democracies (Lijphart et al., 1988). Nevertheless, a closer look at the Greek case shows that the majoritarian model of democracy had already started being transformed into a consensual type of governance through institutional interventions that remain unobservable, if we restrict ourselves to the study of Lijphart’s characteristics contained in his two-dimensional classification of democracies. This rise of consensual democracy, prevailing in most of the western democracies, could be also associated with a new model of party organization, the cartel-party model coined by Katz and Mair in 1995. According to the cartel party thesis “colluding parties become agents of the state, and employ the resources of the state (the party state) to ensure their own collective survival⁹¹⁵ (Katz and Mair, 1995).

In the Greek case we do not apply the concept of consensual governance in terms of the formation of coalition governments as is the case with other western democracies. We rather describe a grid of scattered provisions in legislation revealing a world full of bargaining practices embracing all the political parties represented in parliament that proceed to decision-making on crucial issues. Another version of negotiation corresponds to the participation of employees, that is, trade-unionists representing the established political parties, to the management boards of public enterprises, public insurance funds, universities (students instead of employees) etc. Likewise, arrangements where parliamentary interparty committees interfere with the selection

⁹¹⁴ Follesdal and Hix (2006) state: “For example, an essential feature of the practice of democracy is an institutional design that allows for an “opposition” to the current leadership elites and policy status quos (Dahl, 1971). Providing incentives and arenas for oppositions to organize and articulate their positions is important to ensure that citizens understand differences between the present government and the (democratic) political order (Spapiro, 1996). If citizens cannot identify alternative leaders or policy agendas, it is difficult for them to determine whether leaders could have done better or to identify who is responsible for policies. Active opposition parties in parliament with many affected parties represented, and media scrutiny, are crucial for such fact-finding, attention and assessments. These benefits require freedom of association and information, and real opportunity spaces for formulation and contestation of the agenda and policy choices”.

⁹¹⁵ Hopkins (2003) also states: “At the same time as such limits to growth are reached, and parties agree to agree on the most important questions of economic governance, the organizational evolution of parties has made them increasingly vulnerable to voter backlash. Their memberships, disillusioned by the deideologization of party politics implicit in the cartelization strategy, cease to sustain party organizations with their activism and financial contributionsCartel parties depend on state subventions to meet their organizational and campaigning costs, at the same time as their electorates are being sold the message of austerity. Worse, in some cases state subsidies are insufficient, and parties use their control over political decisions to raise money corruptly, further alienating their supporters”.

of the heads of public enterprises, banks, etc or judges are equally considered to be consensual. Within this framework, the executive and public servants, as its implementing branch, are put aside, and representatives of the political parties or parliamentary interparty committees participate in a negotiating game where political responsibility remains unclear. Moreover, the constitutionality of such arrangements is dubious. Thus, a form of para-governmental loci was created.

Greece's experiment with coalition governments in 1989-1990⁹¹⁶ may be considered as the visible starting point for the institutional spread of consensual practices in Greek politics. Interpretations and evaluations on its significance for strengthening democracy differ. Political scientists (Pridham and Verney, 1991) at the time felt optimistic stating:

The perspective of democratic consolidation requires a longer view of developments and that everyday politics be placed in a broad context. The inclusion of *Synaspismos*, and particularly the KKE⁹¹⁷, in the 1989-90 coalitions was certainly symbolic as an historical departure. Also, despite long-standing fears about its role, this experience hardly proved a threat to the system, and that in itself was an important lesson. It is likely to have reinforced the Left's greater system-supportiveness, already evident before these coalitions. And, not to be forgotten, these coalitions created an undeniable precedent for better relations between the parties in the future and certainly for less stereotyped behaviour between Left and Right in Greek politics. . . . Thus, while any conclusions must be tentative, it seems that the long-term effects of the 1988-89 crisis and the coalition governments it produced will have been positive for the Greek democratic system.

On the other hand, journalistic sources offer a look into the dark side of the coalition experiment. The following abstract from the newspaper article entitled "*The nightmare of the ecumenical government of '90*"⁹¹⁸, gives a cynical interpretation on the issue.

Some still argue that the ecumenical government was formed so that no party takes responsibility for the digital benefits of the Greek Telecommunications Organisation (OTE) procured by the state from the consortium Intracom⁹¹⁹-Siemens⁹²⁰. . . . The ecumenical government was dissolved on February 13, 1990, when Mr. Mitsotakis⁹²¹ estimated that from that moment he could confidently assert power, since in the

⁹¹⁶ See for details in Chapter 1, part 1.

⁹¹⁷ The Communist Party of Greece.

⁹¹⁸ This article written by Vassilis Chiotis, dated 14.11.2010 is available at the website of the newspaper "To Vima", <http://www.tovima.gr/politics/article/?aid=366990>, date of access: 15.11.2010.

⁹¹⁹ According to the Official Website of the Intracom Holdings it is "one of the largest multinational technology groups in Greece. The Group's main activities are: Telecommunications solutions and products; Defense Electronics Systems; e-Government projects and IT systems for Public Administration, Financial Institutions, Banks and Large Enterprises; Telephony and Broadband Telecommunications Service provision; and Construction". Available at: http://www.intracom.gr/intracom_holdings/en/company/profile/intracom_holdings_glance.htm, date of access: 27.02.2012.

⁹²⁰ Siemens is a German multinational. It is the largest Europe-based electronics and electrical engineering company.

⁹²¹ Leader of the right wing party of New Democracy.

meantime the Electoral Act was amended by the famous clause "plus one". The pretext for the dissolution of Parliament came from the disagreement that arose between the political leaders in relation to the selection of the new leadership of the Armed Forces. In effect, all the political parties admitted that coalition governments can not operate in Greece. Recently, the then Deputy Minister of Transport and Communications, Mr. I. Kefaloyiannis⁹²², revealed that the Zolotas's government⁹²³ was overthrown when the supply of 470,000 digital benefits of OTE from Siemens and Intracom was ensured. Despite the fact that the procurement had been blocked by prosecutorial order in the spring of 1989, the Cabinet decided not to carry out a new competition but instead to proceed to a direct award by privately negotiated procedure, thus cancelling another decision which had been taken by the Cabinet a few days ago! *"I announced to Gennimatas⁹²⁴ that I will resign, but Mitsotakis asked me not to announce my resignation because he wanted to settle a serious issue"* claims Mr. Kefaloyiannis. *"If the people knew that the resignation of the government took place because of the fact that the three political leaders intervened in the issue of the supply of the digital material of OTE, it would have been a slap in the face for the political system. Unfortunately, then began the big interweaving of the political system, which is maintained until today"* declares the then Deputy Minister of Transport".

Unfortunately, the Greek crisis that started in 2009 did not confirm the political scientists' optimistic prediction of further democratic consolidation. Some indicative cases of strengthening consensual practices in key state affairs are presented hereafter. Article 16, par. 2, of the law 1388/1983, establishing the National School of Public Administration in 1983, provides that, among other appointees, all the political parties represented in parliament directly appoint their representatives with their alternates to the Central Examination Committee competent for the entry examination. In 1995 the government of PASOK passed the law 2286/1995 providing for the participation of representatives of the political parties⁹²⁵ recognized in parliament in the Committee for the procurements of goods of important financial or technological value. The MPs of the major opposition, the party of New Democracy, and the party of the minor opposition, Political Spring, expressed their deep satisfaction for the measure. An abstract from the speech of the MP of New Democracy, Anastassios Krikelis, during discussions in parliament on the draft law "Public sector procurements and regulations on relevant issues"⁹²⁶, is presented hereafter.

Only one positive point do I find in the present draft law; it is commendable and I should praise it. I mean the fact that the Minister accepted that there will be a provision according to which representatives of the parties will also participate in the committee for important procurements as it is called. He should be praised for this. This provision is indeed innovative. Not because in the specific case it

⁹²² MP of the right wing party of New Democracy.

⁹²³ Xenophon Zolotas was the Prime Minister of the Ecumenical Government.

⁹²⁴ Minister of National Economy from the Party of PASOK.

⁹²⁵ The representatives with their alternates are directly appointed by the respective political parties.

⁹²⁶ Minutes of Parliament on the draft law "Public sector procurements and regulations on relevant issues", 8th Period (of Presidential Parliamentary Democracy), Second Assembly, Plenary Session 52, January 9, 1995.

will be of significance, however it establishes another rule, that is, to understand from now on that in all the important organizations and committees should also participate representatives of the political parties. Thus, no opposition will appear after three or four years saying that you destroyed Olympic Airways and created a debt of 700 billion. Therefore, we should all participate, us and you, Mr Korakas, so that we should all share responsibility and monitor the progress. . .

Stratis Korakis (MP of the Communist Party of Greece) replied: "Just think and I had the impression that this was all about safeguarding transparency!"

Anastassios Krikelis replied: "Please, Mr Korakas. The government will have, of course, the majority and will implement its programme, but the parties will also share responsibility in order to prevent and avoid coming back afterwards and judge and criticize and then claim that "we found "burnt land". Therefore, it is positive as an action, and I expect to see this in other essential draft laws. Since – I repeat- we should all participate in the management boards in order to make something better for this Place. No more hypocrisy. Thank you.

The speech is indicative of the purpose and inevitable results of consensus: collusion, lack of opposition and control, that is, sharing responsibility through complicity. And this lack of mechanisms of control and opposition -concepts inherent in democracy- substituted for a consensual style of governance contaminating the institutions (justice and public administration) might have probably facilitated and partly explains the Greek crisis in political terms.

In 1997, the ministerial decision no 15629 of the Deputy Minister of Culture⁹²⁷ regarding the members constituting the Central Organizational Committee for the conduct of the World Championships in Athletics-Athens 1997 contained also the names of the representatives of the political parties represented in Parliament. Following article 4 of the law 2435/1996, the Committee was a private law legal entity, whereas the audit of its expenses would be carried out by independent auditors and inspectors of the Ministry of Economic Affairs. The budget and its management raised questions. According to an article posted on the electronic edition "Sports of the North"⁹²⁸, in the summer of 1996 the total budget was 5.18 billion drachmas. In June 1997 the budget soared to 9.23 billion drachmas. Eventually the organization cost 19 billion drachmas, around 60 million euros to date. In 2002, the First Instance Court prosecutor requested an audit in order to ascertain where so much money was spent. The result of the inspection was made known in 2007. "Excesses in spending, at a rate twice as high as to what had been initially agreed, and a number of supplies that did not meet the legal route of settlements" the findings stated, among others. The article mentioned that so far, nobody has been held accountable.

The law 3841/2010 introduced consensual practices in relation to the selection of the heads of the supreme courts despite the explicit provision of the Constitution that the selection mechanism constitutes an executive prerogative. The revised Constitution of 2001 failed to satisfy the constant demand of the judges for autonomous selection

⁹²⁷ Government Gazette, vol. B, no 459/5.6.1997.

⁹²⁸ Article entitled "Scandals written on snow" written by Elias Tatalas, dated 07.02.2011, available at: <http://www.makthes.gr/news/sports/69255/>, date of access: 8.2.2012.

procedures compatible with the principle of the separation of powers, that is, the independence of justice from the other branches of government. The new mechanism provides for a pre-selection procedure from the organ of the Conference of Presidents. It also comprises hearings of the candidates proposed by the cabinet. The parliamentary organ formulates an opinion unanimously or with the qualified majority of four-fifths for a part of the proposed candidates. The opinion is not binding for the cabinet that takes the final decision. Adonis Georgiadis, MP of the extreme right wing party of the Popular Orthodox Rally (LAOS) during discussions in Parliament on the relevant draft law⁹²⁹ expressed the view that this new arrangement makes all the political parties share responsibility for the selection of the heads of justice, thus leading to the full allegiance of the judicial power to the political parties.

These indicative paradigms rather shatter the myth of the majoritarian model of democracy in Greece. This long-term familiarity of the political parties with consensual practices and jointly decision-making on crucial issues is also reflected in the legislative evolution and final convergence of the appointments clauses. As a result, once more, the political parties through a small parliamentary organ, imaging the core of the political system, share control of the state. Not incidentally, since 2003 all the decisions of the Conference of Presidents for the selection of the heads and members of the independent constitutional authorities have been unanimous⁹³⁰. Moreover, empirical evidence confirms unofficial party representativeness in the composition of the authorities despite the political decision-makers' assurances of appointing independent personalities⁹³¹. And even if we accept the view that, despite signs of party affiliation, each member expresses its own will and acts led by its conscience in the discharge of his/her duties, the evidence of broad and intense involvement in public life inevitably proves the existence of a system-dependent elite. Busino (1987) aptly decodes the intellectuals' system-supportive role nowadays⁹³²:

The study of the socio-professional categories and mainly the study of the mechanisms of reproduction give evidence of the radical modifications that have taken place in the diffusion of work and the importance of the intellectual functions in this type of context. The role

⁹²⁹ Minutes of Parliament on the draft law "Selection of judicial functionaries to the supreme positions of Justice and restoration of the self-governance of courts", 13th Period (of Presidential Parliamentary Democracy), First Assembly, Plenary Session 87, March 18, 2010 (morning), available at: [http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a09f4c564609d/es20100318\(proi\).pdf](http://www.hellenicparliament.gr/UserFiles/a08fc2dd-61a9-4a83-b09a09f4c564609d/es20100318(proi).pdf), date of access: 08.02.2012.

⁹³⁰ As previously stated in the first chapter, the extreme right wing party, the Popular Orthodox Rally (LAOS), had disagreed with the procedure followed for the constitution of the independent authorities, that is, the National Council for Radio and Television, and the Greek Ombudsman during the session of the Conference of Presidents, on February 14, 2008. This could have been simultaneously perceived as a sign of discontent and pressure for the imminent nominations for the Hellenic Data Protection Authority and the Supreme Council for the Selection of Personnel. Indeed, the party of LAOS managed to achieve the appointment of the member FP56 to the Supreme Council for the Selection of Personnel. He was a member of the party, and parliamentary candidate at the second constituency of Athens in the national elections of 2007.

⁹³¹ The report of the rapporteur of the party of the majority (PASOK) on the Revision of the Constitution of 2001, Evangelos Venizelos, states on the issue: ". . . And third, a special selection process of the members constituting the single-headed or collective authority is introduced. This is the crosspoint. Because we want to have independent authorities constituted by personalities and not by representatives of the political parties, or social groups". Source: Minutes of Sessions and Report of the Committee on the Revision of the Constitution, Seventh Revisional Parliament, Athens 2000, p.650.

⁹³² The abstract was translated from French by the author.

of intellectuals is very important for the reproduction, for the diffusion, for the power: the symbolic productions, the predominant ideologies, the political ideologies, the diffusion, the popularization, the socialization, the integration, the adaption etc are part of the intellectual work. This is furthermore confirmed by the qualitative development of the intellectual roles in all societies. Could we consider intellectuals as the new elites and these elites as a bureaucracy and administration? Do we see the advent of “organic” intellectuals, of new mandarins, and the decline of the intellectual considered as deviant?”

The internal hierarchical relationship corresponding to the ex ante control mechanism of the screening and selection of the administrative and scientific personnel, is exclusively delegated to the members of the independent authorities. However, on many occasions the political decision-makers-public administration drafted a distorted institutional design relating to the recruitment strategies, thus putting the burden of its implementation on the members of the authorities. Despite instances of legislative manipulation, a term used to describe incompatibilities of the recruitment clauses with the constitution, administrative law, and jurisprudence, the principals-members never expressed concerns and proceeded to its implementation. As for the recruitment strategies, the extensive use of transfers and secondments seem to have served clientelistic purposes and inevitably diminish the relational distance between regulators and regulatees-public administration. On the other hand, the unjustifiably large numbers of secondary education graduates as well as cases of university graduates fulfilling positions of the scientific personnel probably reduce the effectiveness of organizations based on expertise.

The selection processes, either in cases of transfers and secondments, or direct hiring, are not systematized and transparent compared to the guarantees offered by the general recruitment system in the public sector. The flaws of the selection processes may be resumed as follows: lack of publication of the public announcements in the government gazette; vagueness of the selection criteria permitting great discretion for the selection committees; lack of an assessment method attributing credits to the typical and substantial qualifications when the selection criteria are clearly defined; lack of information to the public on citizens’ constitutional rights, that is, the right of petition in public administration (article 10) and information (article 5A), thus impeding citizens from exercising their right to appeal, or submit an application for remedy; the lack of credits for each one of the selection criteria hinders the submission of appeals and impedes their effective assessment even in case they are provided for in the public announcement. Under such circumstances, that is, flawed institutional design and selection processes, the credibility of the autonomous hiring is severely damaged, and the members of the authorities may be considered as carriers of the will of the political decision-makers-public administration. Moreover, cases of significant involvement in public life on the part of the members of the scientific personnel as well as secondments to political positions reveal a communicating vessels mechanism.

Not incidentally, the principals-regulators, bound by the limitations of the first and second dyads, inevitably exhibit conflict-avoiding tactics, inertia included, towards their agents-regulatees in their double role as political decision-makers-public administration. Regulatory action, either on own initiative or upon request, gives the impression of not exceeding the limits of what would be considered as politically

correct and tolerated, thus satisfying the regulatees' interests as shown by instances of regulatory failure.

In the fourth dyad, the intervention of the citizens, as an accountability mechanism, is excluded from the chain of regulation inside government through the adoption of immunity provisions, an arrangement that could be considered as a sign of internationalization of the national bureaucracies. The main functionalist argument for the necessity of the measure lies in the assumption that it protects high-ranking public functionaries against the political decision-makers, that is, the executive as object of regulation. Hence, it follows that the members of the authorities act in an independent way without the fear of pressures and interventions since they have no legal responsibility in the discharge of their duties. However, beyond the argumentation and reservations over the measure expressed in the relevant chapter relating to issues of democratic order and the creation of the human rights paradox, the three first dyads seem to impact on the fourth dyadic presentation in a way that probably puts into question the functionalist approach. Indeed, the empirical evidence, that is, the consensual selection procedure safeguarding a joint control of the state by all the political parties, the ubiquitous system-supportive elite appointed in these independent authorities, the lack of transparency in the personnel's selection processes, and instances of regulatory failure might offer a different insight on the issue. In other words, it could be argued that the immunity provisions might serve as a protective net against citizens whose human rights might probably be violated by those who are supposed to defend them.

A glimpse of the future: The emergence of a new profile for the members of the independent authorities?

The United Kingdom and France were the last bastions of executive prerogative for the selection of the heads of their respective Ombudsmen institutions. In the case of the French Mediator, renamed as Défenseur des Droits in 2008⁹³³, the appointments clause follows the U.S. checks and balances paradigm. In June 22, 2011, Dominique Baudis⁹³⁴ was appointed Défenseur des Droits by President Sarkozy. The consensual

⁹³³ The institution of the Ombudsman, le Défenseur des Droits, was constitutionally consolidated in article 71-1 of the revised French Constitution of July 23, 2008. The organic law n° 2011-333 and the ordinary law n° 2011-334 of March 29, 2011 define the activities and powers of the French Ombudsman. The selection process provides that the President of the Republic proposes and appoints a candidate upon approval by three-fifths of the competent parliamentary committees of both legislative chambers.

⁹³⁴ Dominique Baudis, a graduate of the Paris Institute of Political Studies, started his career as a journalist at the Lebanese radio and television. He became a foreign correspondent for TF1 in the Middle East (1976-1977) and worked as a news anchor on TF1 (1977-1980), and FR3 (1980-1982). Member of the centre right party UDF (Union for a Popular Movement), he was elected Mayor of Toulouse in 1983. In 1984, he was elected to the European Parliament, in 1986 he became President of the Regional Council of the Midi-Pyrénées, whereas he was elected MP in 1986 representing Haute-Garonne's 1st constituency. He was re-elected in 1988, 1993 and 1997. Jacques Chirac nominated him President of the Conseil Supérieur de l'Audiovisuel (2001-2007), whereas in 2007 he was nominated President of the Arab World Institute. In 2009, he was elected to the European Parliament. Source: The Official Website of the Défenseur des droits, and Wikipedia, available at : <http://defenseurdesdroits.fr/sinformer-sur-le-defenseur-des-droits/linstitution/presentation-de->

selection process nominated a political figure for the position. On the contrary, the case of the appointment of the new Parliamentary and Health Service Ombudsman in the U.K. in 2011 offers new insights in terms of both the selection process and the profile of the appointee.

The recruitment strategy provided for an open procedure led by the House of Commons Service, in collaboration with the Cabinet Office and the Department of Health⁹³⁵. The recruitment panel was constituted by the Chair of the Public Administration Select Committee, the Permanent Secretary of the Department of Health, a university professor, a former Scottish Public Service Ombudsman, and an external assessor. The shortlisted candidates participated in psychometric tests, interviews, and submitted references. The Prime Minister was notified of the recommended candidate by the panel and tabled a motion to allow the House of Commons to approve it. Before the final approval by the House of Commons, the Public Administration Select Committee held a pre-appointment hearing with the preferred candidate. The process partly drew inspiration from relevant practices for the selection of state-level legislative Ombudsmen⁹³⁶ in the U.S.

Dame Julie Mellor DBE⁹³⁷ was finally selected and appointed to fill the position of the resigned Ann Abraham. Contrary to her predecessors⁹³⁸, who were either senior career civil servants or lawyers, Mellor has a strong managerial-advisory profile as

dominique-baudis, and http://fr.wikipedia.org/wiki/D%C3%A9fenseur_des_droits, date of access : 16.02.2012.

⁹³⁵ The Public Administration Select Committee in its report on the pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman states on the selection process: “To reflect the parliamentary nature of the post and its independence from government the recruitment process is being led by the House of Commons, in collaboration with the Cabinet Office and the Department of Health”. Source: The Official Website of the U.K. Parliament, Pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman, Ninth Report of Session 2010-2012, Volume I: Report and appendices, together with formal minutes, available at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubadm/1220/1220.pdf>, date of access: 16.02.2012.

⁹³⁶ During the pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman before the Public Administration Committee on July 6, 2011, the Chair Kelvin Hopkins (Labour, Luton North) stated: “This is a new process, which is, I think taken from an American practice, but which we think is a very positive advance in the way appointments are made”. The member Paul Flynn (Labour Newport West) also noticed: “This event this morning is a bit of trailblazing by the Committee, because this is the first time there has been a pre-appointment hearing for this office. When this Committee went to America to have a look at the process there, we found great weaknesses in the process and we were very critical of many of the results of pre-appointment hearings, but we thought it was worthwhile for a few senior positions”. Source: The Official Website of the U.K. Parliament, Pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman, Volume II: Oral Evidence, available at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubadm/1220/1220ii.pdf>, date of access: 16.02.2012.

⁹³⁷ DBE stands for “Dame Commander of the Order of the British Empire”

⁹³⁸ Careers of past Ombudsmen: Sir Edmund Compton (1967-1971): Senior career civil servant; Sir Alan Marre (1971-1976): Senior career civil servant; Sir Idwal Pugh (1976-1978): Senior career civil servant; Sir Cecil Clothier (1979-1984): lawyer; Sir Anthony Barrowclough (1985-1989): lawyer; Sir William Reid (1990-1996) Senior career civil servant; Sir Michael Buckley (1997-2002) Senior career civil servant; Ann Abraham (2002-2011) Senior career civil servant.

shown by her career paths both in the private and public sectors⁹³⁹. This transition to a new profile for the post seems compatible with the neoliberal reforms in the public sector, that is, the model of market-centered public governance aiming at “efficiency, outcome, competition, value-for-money, catalytic role, autonomy, partnership, and customer orientation” (Haque, 2000). The case of Mellor is of interest for one more reason. Before being appointed she was a partner within PricewaterhouseCoopers’ Government and Public Sector practice and more specifically the health sector team. According to her CV submitted to the Public Administration Select Committee and the official website of PricewaterhouseCoopers she founded and led the firm’s “innovative Forward Thinking programme which works with politicians across the political spectrum, think tanks and public sector opinion formers to contribute pwc expertise and ideas to solve big public sector challenges”. Therefore, a private sector consultant advising public organizations on board effectiveness and governance penetrates into the public sector in order to implement the corporate governance principles and practices that she had previously developed. In other words, the service provider becomes the client, thus moving from the advisory level to that of implementation. This is an interesting evolution with respect to the increasing influence of powerful global firms⁹⁴⁰ in dictating public policies. Will such profiles

⁹³⁹ Curriculum vitae as quoted in Appendix 3 of the Public Administration Select Committee report on the pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman. Honours and Education: She studied Experimental Psychology at Brasenose College, Oxford. She was awarded an honorary doctorate by Anglia Polytechnic University. She was also made an honorary fellow of Brasenose College, Oxford and of the City & Guilds of London Institute. In 2006, she was made a Dame Commander of the Order of the British Empire (DBE) for services to equal opportunities. Employment: Between 1979 and 1981, Mellor was Eleanor Emerson Fellow in Industrial Relations Education at Cornell University, Ithaca, NY, USA. Between 1981 and 1983 she was an employee relations adviser at Royal Dutch Shell and an economic development officer at Islington Borough Council between 1983 and 1984. She served as Senior Employment Policy Adviser at Greater London Council until 1986 and then at Inner London Education Authority until 1989. From 1989 until 1991, Mellor was appointed Human Resource Manager at TSB Group and then served as Corporate Human Resources Director of British Gas between 1992 and 1996. She created Julie Mellor Consultants where she was also the principal and worked as a consultant on employment and consumer issues until 1999. Her clients included TSB, Motorola, Northern Foods, Xerox, the National Health Service, the Department for Education and Employment, the Home Office and the Employer’s Forum on Disability. Mellor was a partner at PricewaterhouseCoopers between 2005 and 2011, where she was part of the health sector team while she ran the “Forward Thinking Programme”. Mellor was a commissioner at the Commission for Racial Equality between 1996 and 2003 and was the chairman of both the Equal Opportunities Commission between 1999 and 2005 and of the Fatherhood Institute between 2004 and 2008. She has also served as a non-executive board member of a number of bodies, including the National Consumer Council (2001-2007), Employer’s Forum on Disability (1994-2009), the Green Alliance (2007-), the Department for Business, Innovation and Skills (2008-2011) and the Public Services Lab Committee of the National Endowment for Science, Technology and the Arts (2011-). In 2012 Mellor was appointed to the post of Parliamentary and Health Service Ombudsman. Available at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubadm/1220/1220.pdf>, date of access: 16.02.2012.

⁹⁴⁰ PricewaterCoopers is not a Corporation. It has the legal structure of a limited liability partnership (LLP) and as such it is a collection of member firms that are run autonomously in their respective jurisdictions. According to Wikipedia: “*It is a global professional services firm headquartered in London, United Kingdom. It is the world's largest professional services firm measured by revenues and one of the "Big Four" accountancy firms. PwC has offices in 771 cities across 158 countries and employs over 169,000 people. It had total revenues of \$29.2 billion in FY 2011, of which \$14.14 billion was generated by its Assurance practice, \$7.63 billion by its Tax practice and \$7.46 billion by its Advisory practice. . . . As of 2010 PwC was the seventh-largest privately-owned organization in the*

for the members of the authorities become a trend? The future will tell. A new national or cross-national study will be welcome in a few years under the precondition that the independent authorities, as part of a constantly transforming public administration, will still be in place.

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**Regulation inside Government:
Assessing the de facto Independence of the
Greek Constitutional Independent Authorities
from Public Administration**

APPENDICES

Appendices

Chapter 1

APPENDIX 1

Explanatory text containing some basic concepts: separation of powers, separation of functions, checks and balances, and function in the United States

This explanatory text briefly introduces the reader to the United States Supreme Court jurisprudence on separation of powers cases relating to independent agencies (e.g. the appointments clauses of their members (commissioners), the removal power of the President). Certain concepts are clarified, some of them characteristic of the constitutional tradition of the U.S. We considered that the paradigm of the U.S., where the institution of the independent agencies was first introduced, seemed more appropriate for the understanding of its logic through the decisions of the Supreme Court, scholars' views, and relevant policies of the President and Congress.

The concept of the *separation of powers*⁹⁴¹ refers to the constitutionally named heads of government, that is, the President, the Congress and the Supreme Court, and provides for a radical compartmentalization of power divided in particular functions: enforcing, legislating, and deciding upon the application of law. The rationale for that strict division stems from the need to protect the citizenry from tyrannous government since it would be impossible to keep one of the aforementioned heads of government within the constraints of law, if it exercised all three of the powers, or even two.

The concept of *the separation of functions* is linked to the idea of fairness to litigants. In other words, there is a necessity for impartial decision-making in agencies, either executive or independent ones, which are often statutorily assigned the power to exercise all three governmental functions, albeit under the guarantee of judicial and parliamentary review and executive oversight⁹⁴². The idea is grounded in considerations related to the respect and implementation of due process in particular proceedings of individual interest⁹⁴³, that is, the same persons within an agency should not exercise multiple functions⁹⁴⁴ (Strauss, 1984; Swire, 1985).

The concept of *checks and balances* reintroduces the issue of the protection of citizens against tyranny, albeit from a different perspective⁹⁴⁵. This time, the constitutional

⁹⁴¹ We should note that contrary to the rest of the Constitutions, “*the consecutive Swiss Constitutions, the current Constitution of 1999 included, do not expressly guarantee the separation of powers, which is considered as an “unwritten principal” of the constitutional order. The relevance of the separation of powers is relativated by the predominant position of the Federal Assembly as the “Supreme Authority of the Confederation” (article 148 par. 1 of the new constitution) on the one hand, and by the multiple institutions of direct democracy, on the other*” (Dimoulis, 2002).

⁹⁴² Independent administrative agencies do not fall under the ambit of executive oversight.

⁹⁴³ Strauss states: “. . .the separation-of-functions inquiry asks to what extent constitutional due process for the particular individual(s) who may be involved with an agency in a given proceeding requires special measures to assure the objectivity or impartiality of that proceeding. The powers are not kept separate, at least in general, but certain procedural protections, for example, the requirement of an on-the-record hearing before an “impartial” trier - may be afforded”.

⁹⁴⁴ Swire notes that: “*The reduced requirement of impartiality is seen most clearly in the case of commissioners of independent agencies, who now often exercise both rulemaking and adjudicating authority*”.

⁹⁴⁵ In *Buckley v. Valeo* (424 U.S. 1 (1975) (per curiam), the United States Supreme Court in its judgement (Page 424 U.S. 120) stated that: “*James Madison, writing in the Federalist No. 47, defended the work of the Framers against the charge that these three governmental powers were not entirely separate from one another in the proposed Constitution. He asserted that, while there was some*

scheme of the sharp separation of powers is relaxed, and becomes counterbalanced by the idea of “*establishing multiple heads of authority in government, which are then pitted one against another in a continuous struggle; the intent of that struggle is to deny to any one (or two) of them the capacity ever to consolidate all governmental authority in itself, while permitting the whole effectively to carry forward the work of government . . . Rather, the focus is on relationships and interconnections, on maintaining the conditions in which the intended struggle at the apex may continue*” (Strauss, 1984).

Regarding the concept of “function” in relation to independent agencies, we cite Swire’s interpretation based on the diptych formalism-functionalism (Swire, 1985): “*Distinguishing among three meanings of “function” clarifies the relationship between formalism and functionalism. The first meaning is the overall goal, as in the “primary “function” of separation of powers is to prevent tyranny”. See Buckley v. Valeo, 424 U.S. 1, 121 (1975) (per curiam); THE FEDERALIST No. 47, at 301 (J. Madison) (C. Rossiter ed. 1961). Functionalism and formalism share this goal. Functionalism seeks directly to achieve this and subsidiary goals, such as the assurance of impartiality and expertise, through balancing of practical considerations. Formalism, in contrast, attempts to prevent tyranny by preventing any branch from overstepping the restraints provided in the constitutional text. A second meaning of function refers to the three “functions” of government, as exercised by the legislative, executive and judicial branches. The three functions do not correspond precisely with the three branches; the President’s veto, for instance, although exercised by the executive branch, is part of the legislative function. Formalism posits that each branch should act only in pursuit of its named function, except when the Constitution specifically indicates an exception. Functionalism allows exceptions in addition to those explicitly listed in the Constitution when pragmatic considerations so dictate. The third meaning of “function” refers to the various modes of function by which government operates, such as rulemaking and adjudication. Functionalism has used the mode of function of adjudication as a criterion for justifying independence. Independence is one way to foster agency impartiality and expertise and to avoid possibly excessive concentration of power in the President’s hands*”.

admixture, the Constitution was nonetheless true to Montesquieu's well known maxim that the legislative, executive, and judicial departments ought to be separate and distinct: "The reasons on which Montesquieu grounds his maxim are a further demonstration of his meaning. 'When the legislative and executive powers are united in the same person or body,' says he, 'there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner.' "Again: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor." Available at: <http://supreme.justia.com/us/424/1/case.html#11>, date of access: 26.09.2010

APPENDIX 2

Abstracts from discussions in Parliament relating to the appointments clauses in the constitutional independent authorities regulating government

1. Discussions in Parliament on the draft law “*Establishment of the National Council for Radio and Television, and grant of licenses for the foundation and function of broadcasters*” (Law 1866/1989)

The Rapporteur of the Majority of the draft law “*Establishment of the National Council for Radio and Television, and grant of licenses for the foundation and function of broadcasters*”, Theodoros Kassimis (New Democracy), explained that the aim of the draft law was to avoid the interference of the government in the selection mechanism of the members of the National Council. He further analysed the philosophy of the role of the political parties in that procedure. He emphasized that the members who would be nominated by the political parties were not bound by orders, instructions, and practices of the parties they represented. He argued that the government conceded the privilege of selection to the political parties and the relevant societal groups who would nominate individuals of high prestige, not necessarily their members, in order to control the implementation of the new law. He categorically denied the predominance of party discipline in the discharge of their duties.

Alexandros Papadopoulos (PASOK)⁹⁴⁶ expressed his reservations regarding the absence of representatives from universities, the discretion of political parties to nominate individuals from Literature and the Arts, and the issue of incompatibility regarding the nomination of representatives of trade unions and professional organisations as members of an independent authority. In his opinion, the guarantee of personal independence of the members of the Council as prescribed in article 1, par. 2 should be eliminated since it was inconsistent with their capacity as representatives of political parties, trade unions, and professional organisations. He also proposed, as other members of Parliament, that the president of the Council should be elected among its own members.

Manolis Drettakis (Coalition) stressed that the composition of the Council, that is, the formulation of a small interparty committee which possessed the majority in the organ, was not only a demand of the left, but also the other political parties had supported that view. Dimitris Androulakis⁹⁴⁷ (Coalition) used a sophisticated argumentation in his speech. He stressed that they had to do with a completely new institution based upon social and political representation, absolute transparency, public scrutiny, consensus and consultation since it would be impossible to take decisions by majority rule. He argued that decision-making would be based on the art

⁹⁴⁶ Party of the opposition.

⁹⁴⁷ He was elected Member of Parliament for the first time in the elections of 1989 with Coalition. He was an alternate member of the Politburo of the Communist Party of Greece. He participated as a member of the Communist Youth of Greece in the resistance against the dictatorship. He joined Coalition after the schism of the Greek Left in 1991. He left Coalition and active politics in 1993. He took initiatives in order to promote cooperation between PASOK (the socialist party) and the Left. He joined PASOK (the socialist party) and was elected Member of Parliament in the national elections of 2004, 2007 and 2009.

of the consensus through consultation rather than vote and correlations among the political parties. In his opinion, no party would have absolute majority in the Council since the representatives of the parties would be individuals of high prestige forced to operate under consensual procedures.

Theodoros Pangalos (PASOK) expressed his absolute disagreement regarding the corporatist composition of the Council since it was contrary to the philosophy of the greek political system, and thus violated democracy. Nikolaos Sifounakis (PASOK) stated his concern regarding the *numerus clausus* principle in the sense that only three political parties had the right to nominate their representatives, thus hindering the participation of the representatives of new parties in the composition of the Council in case they managed to enter Parliament in the future. He admitted that they all agreed upon interparty representativeness. Nevertheless, he proposed that, since there was much discussion about the enhancement of the role of Parliament, the representatives of the parties should be nominated and elected by the Standing Committee of Parliament. In his view, the procedure through Parliament would enable the competent Committee to discuss upon the proposals of the parties, examine the quality of the nominees, and finally select among the best of the candidacies.

Konstantinos Stefanopoulos⁹⁴⁸ (Democratic Renewal-DIANA), supported the view that the members of the Council should be appointed by the President of the Democracy or the Speaker of Parliament according to the model adopted by other European countries⁹⁴⁹, a selection mechanism that would provide greater guarantees regarding the quality of the members of the Council. Moreover, he stressed, as other members of Parliament, that the representatives of the parties should be equally represented in the Council, and not according to the number of their seats since the first party had the majority in the organ.

Georgios Lianis (PASOK), doubted the claim of the Rapporteur of the majority that the political parties would nominate individuals of high prestige who would be independent from the wishes of those who appointed them. His view was that the political parties, once more, would select those representatives that they could easily control.

The Minister of the Presidency of the Government, Athanassios Kanellopoulos, (New Democracy), in his reply to the reservations expressed by the MPs, tried to support the

⁹⁴⁸ He was elected Member of Parliament for the first time in the national elections of 1964 with the right wing party, National Radical Union (ERE). Member of Parliament in the elections of 1974, 1977, 1981 and 1985 with the party of New Democracy (right wing party, successor of ERE founded by Konstantinos Karamanlis). He served as parliamentary secretary and parliamentary representative from 1981 until 1985. In 1974 he participated in the Government of National Unity of Konstantinos Karamanlis as Deputy Minister of Trade. He served as Minister in various ministries from 1974 until 1981. He ran unsuccessfully for president of the party of New Democracy in 1985. He left the party of New Democracy and created the party of Democratic Renewal in the same year. He was elected Member of Parliament in the elections of 1989 and remained President of the party until 1994. Failure of the party in the elections for the European Parliament led to the suspension of its activity. He was elected President of the Republic and served for two consecutive terms from 1995 until 2005.

⁹⁴⁹ He refers to the model of the Supreme Council for the Audiovisual in France. It is made up of a nine-member Board. Three of its members, including the Chairman, are appointed by the President of the French Republic, whereas the Speakers of the Senate and Parliament appoint three members each (law n° 86-1067 of September 30 1986 as amended), available at: <http://www.epra.org/content/english/index2.html>, date of access: 05.07.2010

views of the majority. He acknowledged the fact that more societal groups should be represented in the composition of the Council, but stressed that such an arrangement would damage its effectiveness. Regarding the risks linked to the procedure of nominations by the political parties, he stressed that all parties had members of high prestige in the arts and science who could be promoted to the posts of the Council. Moreover, he claimed that the political parties and organisations could freely appoint the best individuals either from their own environment or elsewhere. He acknowledged that the appointment of the president of the Council by the first party gave the impression that the majority intended to increase its influence. He adduced two arguments to support his view. First, he argued that, since the government constituted a minority in the Council, it was imperative for it to take the broader responsibility through the nomination of the President. Second, they intended to appoint a full-time president, and thus the party which would make the nomination took in advance the responsibility to make an agreement with the nominee regarding the issue of his full-time occupation. He stressed that it would not be compulsory for the rest of the members to be occupied full-time. Finally, he argued that the appointment of the members of the Council by the President of the Republic was not feasible since legislation did not provide for such competences for the President.

2. Discussions in Parliament on the draft law “*Reconstitution of the National Council for Radio and Television, establishment of the National Committee for Electronic Mass Media*”(Law 2173/1993)

The Rapporteur of the Majority, Dimitrios Palaiothodoros (PASOK), acknowledged that the Council, as an independent authority, was not consolidated in the constitution. In his opinion, that constitutional gap which would otherwise solve issues of accountability of the authority, could be substituted for the proposed selection mechanism since four members of the Council were nominated by the party of the majority, four members by the parties of the major and minor opposition, whereas the president was nominated by the Speaker of the Parliament. He stressed that for the first time the government accorded such competence to the President of the Body, and that proved the political will to avoid the dependence of the public broadcasters from the government.

The Rapporteur of the major opposition, Vassilios Magginas (New Democracy), claimed that the government should either exempt or reduce the participation of political parties in the composition of the Council. He admitted that the participation of the political parties in the composition of the Council according to the law 1866/1989 was a mistake since even members coming from the socially relevant groups followed, more or less, the given party balance. He stressed that instead of fixing the problem, they made it worse by exempting the socially relevant groups from the composition of the Council. In his opinion, the philosophy of the regulation was the absolute control of the organ since five out of the nine members of the Council pertained to the party of the majority. Moreover, he argued that, despite the fact that he had respect for the institution of the Speaker of the Parliament, it was rather improbable that he would appoint someone who would act against the will of the government or at least someone neutral.

The special speaker of the Political Spring (POLAN), Fotini Stephanopoulou, emphasized that the provision aimed at the control of the mass media by the governmental majority, and the exclusion of social scrutiny. She proposed that the president of the Council should be appointed by parliament by a qualified majority of three fifths since such procedure would be a proof that the government wished to enhance consensus by proposing an individual of wider acceptance.

The parliamentary representative of the Communist Party of Greece (KKE), Ioannis Katsaros, stressed that his party would vote against the draft law since the parliamentary majority sought to control the organ, as in the case of the ministerial decision issued by the previous government in 1990⁹⁵⁰. In his opinion, the initial law guaranteed the independence of the Council from government.

The Deputy Minister of the Presidency of the Government, Evangelos Venizelos⁹⁵¹ (PASOK), supported the view that parliamentary representation and the special institutional role of the Speaker of the Parliament should contribute to the selection mechanism of an independent authority. In his opinion, parties nominated individuals without assigning their representation to these persons. He explained that the political parties would be judged upon their ability or disability to select individuals competent to operate under a high degree of independence. With regard to the Speaker of Parliament, he argued that, despite the fact that he was elected by the party of the majority, institutional constraints set by the Constitution and the Standing Orders of Parliament reserved for him a role beyond parties and parliamentary majorities. The criticism of the Scientific Report of Parliament⁹⁵² that the crucial governmental majority in the authority was safeguarded by the nomination of its President by the Speaker of Parliament who was elected by the party of the majority provoked a debate between the Deputy Minister of the Presidency of the Government and the Member of Parliament, Dimitrios Sioufas (New Democracy).

The Deputy Minister of the Presidency of the Government, Evangelos Venizelos, argued that the report downgraded the Speaker of the Parliament since it implied that he was dependent upon the majority, and doubted the prestige of the scientific

⁹⁵⁰ The Ministerial Decision of the Minister of the Presidency of the Government no 22255/2/03.11.1990 (Official Gazette, 695/05.11.1990, vol. B) provided the redefinition of the constitution of the NCRTV. The composition of the organ was further broadened with the participation of eight new members and their alternates nominated by socially relevant groups, that is, representatives from the Church of Greece, the Academy of Athens, the Court of Audit, the Legal Council of State, the Athens Chamber of Trade and Industry, the General Confederation of Greek Workers, the Athens Daily Newspaper Publishers Association, and the Ministry of Transport and Communications. Yet, the Ministerial Decision was annulled by the Council of State (Decision 872/1992 in Plenary Session). The Court judged that the NCRTV was an independent authority and not a collective organ, and thus the executive could not proceed to its reconstitution since it had no legislative authorisation.

⁹⁵¹ Professor of Constitutional Law. He served as member of the Committee of Local Radio, an independent body competent to supervise radio stations (Law 1730/1987) before the establishment of the NCRTV. Member of Parliament since 1993. He served as Minister in various ministries, and was the Rapporteur of the comprehensive revision of the Greek Constitution in 2001.

⁹⁵² Scientific Report of the Parliament on the draft law: *“Reconstitution of the National Council for Radio and Television, establishment of the National Committee for Electronic Mass Media”*, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=0a73af1a-5ea7-4626-83e3-5ab4fe997f6d, date of access: 09.07.2010

opinion. Georgios-Alexandros Mangakis⁹⁵³ (PASOK), emphatically supported that the previous regulation, which incorporated the principle of internal plurality, practically failed in the case of Greece contrary to theoretical expectations. In his opinion, the reason for that failure was the false belief that the nomination of impartial individuals would be appropriate for the function of the authority. Nevertheless, he supported that they should be afraid of those individuals who were characterized as impartial since in practice they were less impartial. He stressed that the draft law was an experiment of cynic sincerity since it established the principle of interparty composition that would, at last, allow them to know with whom they had to deal with, who had the responsibility.

The MPs, Stavros Benos and Georgios Drys (PASOK), strongly doubted the view that the persons nominated by the parties would not represent them. The latter insisted that nobody could either control parties or refer back to them their proposals. In his view, it was obvious that the nominees would be representatives of the parties and not individuals gathering the necessary qualitative characteristics. Regarding the issue of the nomination of the president of the Council by the Speaker of the Parliament, they both argued, as other MPs of the opposition, that any weaknesses of the Council would be assigned to the Speaker whose high prestige should be protected against party antagonisms and confrontations. Kyriakos Spyriounis (PASOK), claimed that they should accept the proposal of the party of Political Spring, that is, the appointment of the President of the Council by Parliament by a qualified majority of the three fifths. MPs from the major opposition fiercely criticised government for the enhancement of the spirit of partisanship in the Council, and the simultaneous exclusion of all the socially relevant groups from its composition.

The Rapporteur of the majority Dimitrios Palaiothodoros (PASOK) expressed his surprise towards that reaction since, while the draft law was discussed in the competent Standing Committee, they had managed to reach consensus on the issues posed by the major opposition to the Minister who had finally accepted them. He accused the major opposition of trying to create impressions on the Greek people who watched discussions in Parliament by presenting a fictitious image. The Minister of the Presidency of the Government, Evangelos Venizelos, declared that he was stunned by the spirit against parliamentarism and partisanship. He announced that when the draft law would be discussed in particulars he intended to propose an intermediary stage, that is, the opinion of the Conference of Presidents, regarding the nomination of the President of the Council.

When the draft law was discussed in particulars the Minister of the Presidency of the Government proposed the final formulation of the appointments clause as follows: *“The Speaker of the Parliament, upon the proposal of the Conference of Presidents, shall nominate the President and his alternate”*. He explained that the opinion of the Conference of Presidents intervened in the selection mechanism since all the parties of the opposition participated in that organ. In his opinion, discussions in the Conference of Presidents would enhance the prestige of the Speaker’s selection.

⁹⁵³ Georgios-Alexandros Mangakis is Professor Emeritus at Athens University, School of Law. He was elected Member of Parliament, and served as Minister of Justice (1982-84 , 1984-85, 1985-86), Health, Welfare and Social Security (1987), and, finally, Deputy Minister of Foreign Affairs (1995) in the PASOK governments.

Vassilios Magginas (New Democracy), considered that the proposal was positive, and suggested that the Conference of Presidents should formulate its opinion after consultation among representatives of the parties. In his view, parties could propose to the Conference two, three persons, probably of common acceptance; then the Conference would formulate its opinion, and finally the Speaker would decide.

Fotini Stefanopoulou (POL.AN) admitted that it was an important improvement, but insisted on her proposal that the President should be appointed by parliament by a qualified majority of three-fifths. If a qualified majority could not be achieved, she proposed as ultimum refugium the solution of the Conference of Presidents. Ioannis Katsaros, parliamentary representative of the Communist Party of Greece, admitted that the correction of the Minister moved towards a more positive direction, but still the Council was an organ under governmental influence. Georgios-Alexandros Mangakis (PASOK), argued that the proposal relieved the Speaker of the burden of having to decide exclusively upon such a serious issue, and thus a basis for interparty nomination was created.

3. Discussions in Parliament on the the draft law “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*” *The Supreme Council for the Selection of Personnel (Law 2190/1994)*

MPs of the opposition, as well as MPs of the majority expressed reservations regarding the selection process. The special speakers of the Political Spring⁹⁵⁴ (POLAN) and the Communist Party of Greece⁹⁵⁵ (KKE) Nikolaos Oiconomopoulos and Dimos Koubouris respectively stressed that the new independent authority would be part of the government, an organ of the party of the majority since it was the Minister who selected and appointed its members.

Stavros Benos (PASOK)⁹⁵⁶, suggested the creation of a mixed body constituted of political groups on the one hand, and members of the academia on the other. The members of this body would propose thirty to fifty nominees coming from the ranks of high-ranking public functionaries or judges. Moreover, they would be individuals enjoying broad social acceptance. They would be chosen by lots, and the procedure would take place in Parliament. That would give prestige to the new institution. Georgios Drys (PASOK) took this suggestion one step further and asked the Minister of the Presidency of the Government, Anastasios Peponis, who submitted the draft law, to show sensitivity to the issue of the composition of the Council. He recommended that each party in Parliament should propose a representative with expertise in public administration to participate in the management board, and thus prove that the government did not intend to control the organ by appointing partisans of the party of the majority.

⁹⁵⁴ Party of the minor opposition. The Political Spring is a former Greek political party with liberal orientation established in June 1993 by Antonis Samaras, ex-minister of foreign affairs. His radical stance towards the issue of the name of the Former Yugoslav Republic of Macedonia provoked his removal from the office in April 1992. Unsuccessful electoral rates (below the national threshold of 3%) at the national elections in 1996, and the elections for the European Parliament in 1999 led to the gradual dissolution of the party.

⁹⁵⁵ Party of the minor opposition.

⁹⁵⁶ Party of the majority.

Christos Markogiannakis (New Democracy)⁹⁵⁷ stressed that it was the Cabinet upon proposal of the Minister of the Presidency of the Government that designated the composition of the Council. Moreover, he criticized the fact that the members of the board were self-renewed. The MP wondered whether anyone could have ever believed in the Minister's good intentions. The President of New Democracy, Miltiadis Evert, accordingly stressed the hereditary right that was created through a selection mechanism that enabled members that were about to retire to participate in the procedure of appointing those who would replace them.

Anastasios Peponis, Minister of the Presidency of the Government, supported that this was a procedure based upon a historic precedent. He claimed that it was not his intention to compare sizes and individuals. He referred to the case of the foundation of the Council of State, the supreme administrative court, in 1929. According to the relevant legislation of the time, it was the Cabinet that first appointed the President, Vice-President and members of the Council. In his opinion, it was the composition of the body that guaranteed the prestige of the institution, and not the selection procedure of the first President, Vice-Presidents and Councillors. He supported that those people created the tradition, and that explained the intention of the government to create an analogous tradition for the Supreme Council for the Selection of Personnel. He stressed that the organ would be self-reproduced, and the government should be praised for that arrangement. Moreover, he emphasized the fact that the members of the management board selected the president and vice-president, a practice not followed for the appointment of the Presidents and Vice-Presidents of the supreme courts⁹⁵⁸. He argued that promotions in supreme courts excluded any external intervention, and that served as a model for the new authority, namely, the creation of a system of reproduction and self-renewal. Finally, he stressed that all accusations stemmed from a fear that, through that procedure, the members of the management board would appoint their children and grandchildren to the vacant posts. He accepted that the phenomenon was not uncommon in other areas, especially in universities in the past. He argued that it never happened in the case of the supreme courts, and there was no such danger in the case of the new authority.

The MPs Dimitrios Sioufas (New Democracy) and Antonios Skyllakos (KKE), interestingly enough, reiterated the idea earlier proposed by Georgios Drys (PASOK) that representatives of the parties in Parliament or trade unions should participate in the composition of the management board. Moreover, the MP of the Communist Party insisted that the proposed system favored the governing party since it could control the majority of the Council. He then reminded the House that when no party had the majority in Parliament, all parties had unanimously agreed on the composition of the

⁹⁵⁷ Party of the major opposition.

⁹⁵⁸ Article 90, par. 5 of the Constitution of 1975/1986 read as follows: “5. *Promotion to the posts of President and Vice-Presidents of the Supreme Administrative Court, of the Supreme Civil and Criminal Court and of the Court of Audit shall be effected by presidential decree issued upon proposal of the Cabinet, by selection from among the members of the respective supreme court, as specified by law. Promotion to the post of Supreme Civil and Criminal Court Prosecutor shall be effected by similar decree, by selection from among the members of the Supreme Civil and Criminal Court and Deputy Public Prosecutors of this Court*”.

Council for Radio and Television⁹⁵⁹. He posed the question why they could not create an analogous organ where nobody would have taken control of it.

Andreas Lendakis (POLAN) challenged the transparency of the selection mechanism, and proposed that the members of the Council should be appointed by parliament by a qualified majority of two thirds. He claimed that two hundred out of three hundred deputies should agree upon the members of ASEP. In his opinion, there was a need for consensus since no party disposed of two hundred deputies. He argued that such a procedure would guarantee transparency, and further enhance the members' independence. Moral support from Parliament would strengthen their resistance and defense against those who would attempt to impose their opinion upon them.

The Parliamentary Representative of PASOK, Christos Rokofyllos, challenged the view of the president of New Democracy, Miltiadis Evert, that internal procedures for the selection of new members in cases of death or age limit distorted the system. He explained that the proposed mechanism was called cooptation, and was internationally applied in cases when a body selected new members through internal processes in order to keep its independence.

When the draft law was discussed on particulars, Spyridon Giatras (PASOK) Rapporteur of the draft law claimed that, despite criticisms expressed by MPs, those trustful eleven individuals could be found, as long as Parliament demonstrated its political will. Byron Polydoras (New Democracy), stressed that the selection mechanism, namely, the Cabinet, and distrust towards government as the main reason for the creation of independent authorities were not compatible with one another. In his opinion the draft law was schizophrenic since it confirmed the position that people should trust the government that would appoint the independent administrative authority. He proposed four alternative systems for the selection of the members of the Council. First, drawing lots. Second, *ex officio*, namely, according to office. Third, interparty cooperation. In his opinion, it was a rather vulgar but realistic option. Fourth, *ex officio* from the supreme courts combined with representativeness. He acknowledged that representativeness was not a synonym for independence and objectivity, but it was a big step towards those principles. With regard to the concept of cooptation, as previously analyzed by the MP of Pasok Christos Rokofyllos, he stressed that it was not a modern institution since it had its origins in Roman Law. He insisted that the procedure did not fit modern societies since it was a relic of succession through hereditary right.

Christos Rokofyllos (PASOK) intervened and reminded the MP Polydoras that cooptation was broadly implemented in cases when modern societies sought to guarantee the independence of a collective organ (e.g. Academies, the Greek and the French, institutions of higher education etc). He stressed that whenever the legislator sought to guarantee the independence of a collective body, he established the principle

⁹⁵⁹ In the national elections of June 18, 1989 no party could form government. This eventually led to the formation of a coalition government between the party of the left (a coalition of the two major parties of the left: the Communist Party of Greece and the Greek Left), and the party of the right.

of self-renewal, that is, the collective body itself decided upon the succession of its members.

Nikolaos Economopoulos (POLAN), brought back the proposal of his party that Parliament by a qualified majority of two thirds should select the members of the Council since two hundred deputies are more credible than a Minister's proposal. The Minister of the Presidency of the Government, Anastasios Peponis, agreed with the explanations given by the MP Christos Rokofyllos and repeated that cooptation, as applied in academies all over the world, in institutions of higher education, in the case of the supreme courts in Greece, with the exception of their Presidents and Vice-Presidents, served as a paradigm for the appropriate selection mechanism that had to be implemented in the new authority. With regard to the issue of the first composition of the Council, he expressed his deep belief that the government could designate with a sense of responsibility its first composition in an unimpeachable manner by selecting individuals of broad recognition by the society and the state. Nevertheless, he acknowledged the fact that a number of MPs of the majority had already expressed their objections and had made their suggestions. Taking their remarks into consideration, he proposed to the House another regulation that would confirm the sincere intentions of the government. Thus, he suggested the reformulation of par. 7 as follows: *"For the first application of this law, as president, vice-president and members of the Council shall be appointed individuals who fulfil the preconditions of par. 2 according to the following procedure: First, within ten (10) days after publication of this law the Minister of the Presidency of the Government shall submit to the Conference of Presidents a uniform proposal for the posts of the president and vice-president of the Council. A qualified majority of four fifths of the members of the Conference shall be required for the approval of the uniform proposal"*. At this point, Minister Anastasios Peponis emphasized that in the Conference of Presidents of Parliament⁹⁶⁰ all parties would have the opportunity to express their views, and justify either their agreement or their disagreement, if they had any, putting emphasis on the expression "if they had any". And he kept reading the rest of the reformulated provision: *"If such majority is not obtained, the Minister of the Presidency of the Government submits within eight (8) days after the announcement of the relevant decision of the Conference a new uniform proposal that may be approved with simple majority. After the approval of the proposal, the appointment of the nominees is made official by presidential decree, issued upon proposal of the Minister of the Presidency of the Government. Second, within ten (10) days after their appointment, the President and Vice-President of the Council submit to the Minister of the Presidency of the Government a joint proposal comprising fifteen (15) individuals, at least, as candidates. The Minister selects nine (9) members whose appointment is made official by a presidential decree, issued upon the Minister's proposal"*. Finally, he stated that

⁹⁶⁰ One of the major innovations of the Standing Orders of 1987 was the introduction of the collective interparty organ of the Conference of Presidents of Parliament. The main duties assigned to it under the Standing Orders were to take decisions on the organization of Parliament's work and issues of legislative planning. The Conference was at the time composed of the Speaker of Parliament, as President, the Deputy Speakers of Parliament, the Presidents of the Standing Committees and special committees, the Presidents of the Parliamentary Committees, and one independent MP (Standing Orders of the Greek Parliament, Chapter 4, article 13 entitled "Composition-convocation", Official Gazette, vol. A', no 106/24.06.1987).

as members of the government they had promised the House that they would communicate their thoughts regarding the individuals that would participate in the first composition of that body. He explained that if the majority of Parliament approved and voted for that reformulation, it was obvious that the government had no involvement in the designation of the fifteen individuals since the President and the Vice President of the Council were the ones who would propose them to the Minister in order to select nine of them. And then he expressed his intention to announce to Parliament, as he had promised, the personalities to whom they would address themselves with the request to accept. If they accepted, they would constitute their common proposal to the Conference of Presidents. The names he announced were: for the post of the President, the honorary Prosecutor of the Supreme Civil and Criminal Court, Mr. Giorgos Plagiannakos, and for the post of the Vice-President, the honorary Vice-President of the Supreme Civil and Criminal Court, Mr. Michalis Papadakis.

Dimitrios Sioufas (New Democracy) observed that the Minister's proposal for a new version of the selection mechanism, namely, the Conference of Presidents, was simply a way to attach a sense of objectivity in the procedure. He explained that the government obviously had the majority in the Conference. Moreover, he claimed that the Minister, in order to further impress the House, simply announced the names of two judges of the supreme courts whom he intended to ask to accept the posts of president and vice-president of the Council. He argued that the majority that supported government was manipulated in such a way that someone could actually speak of what handbooks of political science called dictatorship of the majority. In his opinion, the intention of the Minister was to persuade the majority which supported the government to accept his proposal, and give the impression that the selection mechanism was objective and unimpeachable.

Christos Rokofyllos (PASOK), stressed that it was the opposition that challenged the first version of the relevant clause, that is, the arbitrary appointment of the management board by the Cabinet. He explained that the Minister moved towards the creation of a more objective system in order to avoid distrust, and expressed his full surprise at the opposition's view that the new mechanism reflected the dictatorship of the majority. He wondered whether the opposition really followed what the government suggested. Once more, however, he explained the philosophy of the system: the Minister would propose the President and Vice-President of the eleven-member board of the independent organ to the Conference of Presidents that was mixed and interparty. In case they were approved by the majority of the four-fifths of the body, the procedure would be completed. Otherwise, there would be a new proposal, and the nominees would be selected by simple majority vote. Moreover, he stressed that the government moved a step further, and announced the names of the individuals it intended to propose to the Conference of Presidents, after having put out feelers to the nominees about their intentions to accept the posts. He stressed that the government proposed a judge of a supreme court as president of that independent body, Mr. Giorgos Plagianakos, whom the government of New Democracy had appointed upon decision of its Cabinet as Prosecutor of the Supreme Civil and Criminal Court. He expressed his surprise at the opposition's lack of tolerance and understanding, and wondered whether they trusted the ex-Prosecutor of the Supreme Civil and Criminal Court that the government proposed since he had been selected for that post by the party of the opposition in the past. He claimed that the appointment was a proof that they had considered him either as their sympathiser or, at least, someone who was not opposed to their views and values. He wondered whether they

still distrusted a competent person, capable of exercising the deed of the guardian of law in an ethical and objective manner. He argued that Mr. Papadakis, honorary Vice-President of the Supreme Civil and Criminal Court, as nominee for the post of the vice-president was broadly praised and well-known for his decency.

Christos Rokofyllos, addressing himself to the Parliamentary representative of New Democracy, Dimitrios Sioufas, asked him whether he held those publicly nominated individuals in high esteem, and if he did so, he had to answer where he located the signs of “the dictatorship of the majority”. Dimitrios Sioufas replied that their reservations had nothing to do with the individuals since the problem stemmed from the procedure and the qualified majority of the four fifths of the Conference where the government had the majority. He added, moreover, that the nominees had not yet accepted the government’s proposal. Christos Rokofyllos wondered why they objected to a procedure that would allow those two individuals to submit a common proposal for the rest of the members of the Council since they were highly esteemed.

Andreas Lendakis (POLAN), insisted on the selection mechanism that his party proposed, that is, consensus by a two-thirds qualified majority since no party disposed of two hundred deputies. He claimed that the proposed procedure guaranteed that all would agree upon individuals and their qualifications. He argued that such an agreement would inevitably help the new institution gain high prestige, thus providing mechanisms of resistance towards any government that could have never achieved to attain such a wide majority in order to impose its will.

The Minister of the Presidency of the Government, Anastasios Peponis, explained that the submission of the government’s proposal to the Conference of Presidents meant that all parties would have the chance to express their view and justify it. He claimed that under such circumstances they would let the Greek people know why they rejected or approved certain individuals whose candidacies the government would submit to the Conference of Presidents in order to exercise its judgement for the first and last time. Furthermore, he argued that if those two individuals succeeded in achieving the trust of the parties, they would commit government regarding the nine new members that would supplement the body. He emphasized that either they trusted the individuals that the government intended to plead in order to accept their candidacy or they did not trust them. He claimed that it was their right to show to the Parliament and the people why they did not trust those individuals, and then the Parliament and the people would judge them. He made once more clear that he did not speak on behalf of the candidates. He clearly stated that the government would address its proposal to those individuals, and that proposal would be binding for the government. He explained that if those individuals accepted their candidacy, and if the majority of Parliament confirmed their selection, they would be the ones who would propose the fifteen candidates for the nine posts. Consequently, the government would have no alternative but to appoint from among those proposed by the honorary Prosecutor and the honorary Vice-President of the Supreme Civil and Criminal Court.

Andreas Lendakis (POLAN) expressed his reservation regarding the proposal of certain individuals for the posts of the Council since Parliament should decide upon the procedure and not upon individuals. In his opinion, the recommended procedure was not transparent since the Minister proposed the President and Vice-President, and then the body was self-renewed. He explained that even if the procedure foresaw that the Minister had the right to propose the President and Vice-President only once, that

is, during the first application of the law, a new government could change the law and the relevant procedure. Finally, he wondered why the government did not accept the proposal of his party that provided for the appointment of the Council by Parliament by a qualified majority of the two-thirds. In his opinion, it was a transparent procedure that would guarantee that the eleven-member management board would not be controlled.

Angelos Bratakos (New Democracy) claimed that the reformulation of article 4 was nothing else but a new Jesuitism since the announcement of the names was mere tactics developed to impress and disorientate. He wondered who would be the next nominees in case the ones they announced did not accept. He expressed his concern that the proposed individuals, due to their personal history, would not accept the posts. In his opinion, the government would appoint its partisans through hereditary right since they would secure their successors and, consequently, the government and the party would keep continuation.

4. Discussions in Parliament on the draft law “Protection of the individual against the processing of personal data” (Law 2472/1997)

The Rapporteur of the major opposition, Anna Psarouda-Benaki⁹⁶¹ (New Democracy), supported the view that the new authority should be under parliamentary scrutiny regarding its functional competences, whereas the administrative ones should be under the supervision of the Minister of Justice. Thus, in her opinion, parliamentary scrutiny should be linked to the competence of Parliament to select the heads and members of the authority. Regarding the composition of the board, she argued that judges should be the majority in the organ, namely, two members, apart from the president, should be judges. Moreover, she wondered how the selection mechanism provided for the president, that is, his nomination by the Minister of Justice, would guarantee the independence of the authority from public administration. As for the two of the members, she stated that the terms “of high standing and experience” were vague, and thus could not properly define their qualifications. She further noticed that those members were also proposed by the Minister of Justice. She wondered whether university professors could be proposed by the relevant departments of their institutions. She argued that the intervention of the Committee on Institutions and Transparency for the formulation of an opinion was correct since the Committee’s work was relevant, and would be linked to an issue which dealt with transparency in the function of the state and society. Nevertheless, she expressed her concern regarding the interference of the Conference of Presidents in the procedure since it was the first time, to her knowledge, that the organ was assigned a decisive competence on an issue that concerned the Polity and was not connected to the function of Parliament. She stressed that it was an internal organ provided for in the Standing Orders of Parliament, and was not based on a legislative provision. She stressed that the Conference of Presidents was abruptly upgraded and proclaimed as organ of the Polity that selected the organs of an authority that was going to exercise a serious function in society. She believed that not only the Conference of Presidents was not the appropriate organ, but also Parliament had no legitimisation for the assignment of such a competence to the Conference. She proposed that Parliament

⁹⁶¹ Professor at Athens University, School of Law. Member of the Academy of Athens (2010). She was elected Member of Parliament, and served as Minister in various ministries. She was the first Greek woman to be elected Speaker of Parliament (2004-2007).

should directly nominate and select the board of the authority by a majority vote. She did not have in mind whether the Standing Orders could provide for an internal nomination procedure since according to the Constitution it was only Parliament that could take decisions which could be implemented in the system of the polity. Finally, she argued that she could not think of a more appropriate interparty nomination system.

The Speaker, Apostolos Kaklamanis (PASOK), intervened regarding some provisions of the draft law that dealt with the Standing Orders of Parliament. He admitted that the issue was also related to other draft laws which Parliament had already passed and cited at the Standing Orders. He announced that the Standing Orders would be revised, and all those procedures provided for in the various draft laws which had been voted by parliament until then, would be included in them. He stressed that there were draft laws that assigned to Parliament various competences, draft laws that Parliament itself had previously voted. He informed the Body that he had asked the competent service to identify those laws in order to adapt them to a future revision of the Standing Orders. He clarified that those laws, in turn, would probably be revised in accordance with the relevant discussions and decisions of Parliament regarding the Standing Orders. Finally, he explained, that the Standing Orders, according to the constitution, defined under the guarantee of the autonomy of the legislative body all issues regarding its functions and competences.

Leonidas Avdis (KKE), expressed the disagreement of his party regarding the proposed selection mechanism since it did not provide for broader guarantees for the appointment of the president and its members. In his opinion, they should be selected by Parliament by a qualified majority that would hinder appointment by the governing party. As for the nomination procedure, he proposed that the competent body for the selection, either Parliament, or the Committee on Institutions and Transparency should not select among a certain number of candidates submitted by the Minister of Justice, but should rather have the possibility to ask for the submission of supplementary candidacies.

Fotis Kouvelis (Coalition), supported that representatives of social groups, such as the General Confederation of Greek Workers, the Coordinating Committee of the Greek Bar Associations, the Central Union of Municipalities and Communities, should participate in the composition of the Authority. He stressed that his party was opposed to the participation of pensioners, either retired judges or university professors since it was common knowledge that it would be easier to control and manipulate someone retired. Moreover, he insisted that someone after his retirement identified himself more easily with a certain political perception. Regarding the two individuals of high prestige and experience, he argued that the formulation of the provision was vague since special qualifications for the posts should be expressly set forth. He stressed that such vagueness could become dangerous. In his view, Parliament should participate in the selection mechanism, despite the fact that he acknowledged that the Standing Orders should be revised in order to keep legality. He explained that the interference of the Cabinet upon proposal of the Minister of Justice in the appointment of the president could serve as a mechanism that - irrespective of those in power- carried preferences or even suspicious omissions regarding the control of the processing of personal data that the authority should have to carry out. Moreover, he disagreed over the different procedures to be followed for the selection of the president and the

members of the board. He insisted that Parliament should make the proposal for both the President and the members, and that proposal should be binding. He concluded by saying that the presence of Parliament in the whole procedure could serve as a guarantee for the objective and neutral function of the authority.

Stratis Korakas (KKE) agreed with Anna-Psarouda Benaki that it was impossible to assign competences to the Conference of Presidents which were not provided for in the Standing Orders. He commented that the Speaker's proposal regarding the revision of the Standing Orders could be a solution to the problem, but rather difficult to achieve. Kyriakos Spyriounis and Panagiotis Kouroumbilis, (PASOK), supported the view that Parliament should appoint the heads and members of the authority. Moreover, Panagiotis Kouroumbilis, agreed with the view of Fotis Kouvelis that judges on active service, and not retired ones, should participate in the composition of the authority since they could resist more against temptations of power. Evangelos Yannopoulos, Minister of Justice, replied that the issue of the constitution of the authority had been discussed many times. There were proposals that Parliament should select the board of the authority by a qualified majority of two-thirds or three-fifths, but no agreement could be reached since views differed.

5. Preliminary Discussions on the draft law "*The Greek Ombudsman and the Corps of Inspectors – Controllers of Public Administration*" in the Standing Committee on Public Administration, Public Order and Justice

According to the minutes of the Standing Committee on Public Administration, Public Order and Justice⁹⁶², the Rapporteur of the major opposition Georgios Tzitzikostas (New Democracy) stressed that there was no reference on the procedure to be followed regarding the selection of the Ombudsman by Parliament. In his opinion, that point raised a constitutional issue since, after the law was passed by Parliament, the Standing Orders should have to be revised. He further noticed that the qualified majority voting was not specified. He supported the view that the Ombudsman should be elected, at least, by a qualified majority of three fifths, and claimed that his party had already proposed that during the procedure for the revision of the constitution, and submitted a draft law on the introduction of the institution of the ombudsman.

The Special Speaker of the Coalition of the Right and Progress (SYN), Fotis Kouvelis, did not express any reservations on the constitutionality of the provision, and argued that the Ombudsman should be elected by a qualified majority since otherwise he feared that one more institution would be subordinated to the control of

⁹⁶² Minutes of the Standing Committee on Public Administration, Public Order and Justice, available at: http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=7ab346ee-b1b7-48c1-a646-96c465579212, date of access: 30.07.2010. Discussions on the draft law were held in three sessions on February 12, 13 and 18, 1997. During the second session on February 13, 1997, following article 38 par. 2 of the Standing Orders, the Committee held hearings on the draft law. Georgios Kasimatis, President of the Union of Greek Constitutionalists, Nikiforos Diamandouros, President of the National Centre for Social Research, and Ioannis Koutsoukos, President of the Supreme Administration of the Unions of Public Servants were called and expressed their views on the draft law. Interestingly enough, Nikiforos Diamandouros became the first Greek Ombudsman.

party majorities, and thus would lose its character. The Special Speaker of the Democratic Social Movement (DIKKI), Georgios Tsafoulas⁹⁶³, challenged the constitutionality of the provision. The Minister of the Interior, Public Administration and Decentralisation, Alexandros Papadopoulos, admitted that the issue of the election of the Ombudsman had preoccupied the Ministry, and discussions had also been held with the services of Parliament. He explained that their main concern was whether they had first to vote on the draft law and then proceed to the revision of the Standing Orders or vice versa. He noticed that the prevailing scientific view and many of his colleagues proposed that the Standing Orders had to be revised first. Nevertheless, he stressed that the Standing Orders could not regulate an issue referring to an institution that was not previously provided for in legislation. He explained that the government finally supported the option to introduce the institution first. Moreover, he stressed that the procedure for the selection of the ombudsman would be regulated by the revision of the Standing Orders, and expressed the government's intention of supporting the procedure of appointment by parliament by a qualified majority of three fifths.

6. Discussions in Parliament on the “*The Greek Ombudsman and the Corps of Inspectors – Controllers of Public Administration*” (Law 2477/1997)

The Special Speaker of the Democratic Social Movement (DIKKI), Georgios Tsafoulas, faithful to his stance as expressed in the minutes of the competent Standing Committee, supported that the election of the Ombudsman by Parliament was contrary to the Constitution since no constitutional clause or provision of the Standing Orders gave Parliament the power to elect the Ombudsman. He stressed that the draft law made reference to a future provision in the Standing Orders, and MPs were actually asked to vote for a draft law that provided for the election of the Ombudsman by Parliament by an undefined qualified majority, an institution that was not even contained in the Standing Orders. He argued that the claim of the Minister of the Interior that the Standing Orders would be revised actually proved that Parliament would ratify in the future a legislative act that should have passed by Parliament before the introduction of the law on the institution of the ombudsman, something that lacked legal basis. With regard to Professor Kassimatis's⁹⁶⁴ view, expressed during the

⁹⁶³ George Tsafoulas (Patras, 1935 -Patras, 2004) was a lawyer and Greek politician. He was a founding member of PASOK. In 1995 he left PASOK and adhered to Democratic Social Movement (DI.K.KI.) founded by Dimitris Tsouvolas. He was elected member of Parliament with DIKKI in 1996.

⁹⁶⁴ George Kassimatis is Professor Emeritus at the School of Law, Athens University. From 1981 to 1988 he was Director of the Legal Office of the Prime Minister, Andreas Papandreu, and Legal Councillor of the Prime Minister. From 1997 until 1998 he served as President of the National Council for Radio and Television. During the period 1978 to 1980, he was appointed as alternate member of the Council of Citizenship of the Ministry of the Interior. From 1982 to 1985 he was a member of the Executive Committee of the Greek National Commission for UNESCO, and served for two terms as a member of the Special Court for Mistrial. In 2003, upon decision of the Speaker and with the unanimous approval of the Conference of Presidents he was appointed member of the board and Vice-President of the "Foundation of the Hellenic Parliament for Parliamentarianism and Democracy". He participated in the preparatory phase of the elaboration and revision of the Constitution of 1975. During the revision of the Constitution of 1986, he elaborated the draft of the revision, and actively participated in its formulation throughout the revision process. During the period 1974-1975, he was a member of the Scientific Working Group for the study and revision of the Organic Law governing Universities (Group Evrigenis). Since 1974 he has been appointed as chairman or member of numerous legislative drafting committees. Since January 2005 he is Vice Chairman of the Committee of Experts

sessions of the Standing Committee, that linked the function of parliamentary review to the duty of Parliament to elect the Ombudsman, Georgios Tsafoulas stated that never before had he heard that the content of the function of parliamentary review led to the possibility that Parliament had the obligation to elect the Ombudsman. In his view, the Professor's argumentation was totally paradoxical and irrelevant to any logical explanation since the provisions of the Constitution and the content of parliamentary review did not allow for such an interpretation. He supported that Professor Kassimatis should have presented one by one all provisions regarding parliamentary review, and should have indicated the part of the Constitution referring to the parliamentary review that suggested that Parliament had the right and the obligation to elect the Ombudsman. On the contrary, he stated that Professor Kassimatis came to the Committee and constructed a myth that they, the non-experts on the constitution, had to accept his view. He stressed that they would not support Professor Kassimatis's position since they considered it as infantile. He wondered why members of parliament had to support and agree upon a view that accepted that provisions regarding the parliamentary review gave parliamentarians the right and the obligation to elect the Ombudsman. Georgios Tsafoulas stated that Professor Kassimatis had claimed all these in order to support the draft law, and thus justify its unconstitutionality and the omission of all those acts that should have taken place before the submission of the draft law to Parliament. He argued that they had first to revise the Constitution, and after its revision the draft law could be submitted to Parliament.

Kyriakos Spyriounis, (PASOK), emphasized the fact that the interference of Parliament in the selection mechanism of the Ombudsman was a sign of democratic consistency. Regarding the objections on the constitutionality of the provision and the gap in the Standing Orders, he argued that the Constitution could not foresee everything. In his view, the Constitution defined the guidelines of the polity, that is, the fundamental rights, social, political, freedoms, and the constitution of justice and public administration, the three functions in Montesquieu's well-known overlapping. He argued that the Constitution could not define all special details.

Anastasios Peponis, (PASOK), intervened and stressed that the Standing Orders could not be contrary to the Constitution. Kyriakos Spyriounis replied that they should correct it. Anastasios Peponis asked whether he referred to the Constitution, and Kyriakos Spyriounis answered that he meant the Standing Orders. He believed that the governing party was characterized by democratic sensitivity and responsibility, and any unconstitutional points in the draft law would be corrected. In his opinion, the interference of Parliament in the procedure of the election of the Ombudsman by a qualified majority should be praised since it guaranteed the liberation of the institution from party commitments, that is, the independence of the Ombudsman from the governing party.

on Public Administration. Since 1982 he is member of the Legal Council of the Bank of Greece, and during the period 1999 to 2002 he served as legal Councillor at the state owned company "Cadastre SA". Source, Kremalis Law Office, available at: <http://www.kremalis.gr/object.php?obj=9f203e8>, date of access: 02/08/2010.

Prokopis Pavlopoulos⁹⁶⁵, (New Democracy), expressed his concern regarding the constitutionality of the provision on the selection mechanism of the Ombudsman based upon his own assessment and the report of the scientific service of Parliament. In his opinion, two major issues should be re-examined: first, the procedure for the election of the Ombudsman, and, second, the qualified majority for the election. He made clear to the other members of Parliament that he had no intention to introduce legal barriers to the discussion, but he warned that a bad start might create problems in the future since a constitutional violation was always a violation that bore no qualitative ratings; it was one and uniform. In his opinion, the Constitution could not be violated in order to satisfy any political or other tendentiousness since the Constitution had its own logic, and its observance was a matter of principle. He supported that the Ombudsman was an organ of the executive, something that nobody doubted -the government included-, and, therefore, it was impossible to be appointed by Parliament without prior special revision of the Constitution that would permit deviation from the principle of the separation of powers. Moreover, he clarified that even the Standing Orders could not settle the issue without prior constitutional provision since, according to the principle of the separation of powers, the Legislative power had competences relevant to the Legislative power, and thus could not appoint organs of the Executive power. Regarding the second major issue of the qualified majority, he doubted the view that the law or even the Standing Orders could provide for a qualified majority. In his opinion, it was the Constitution that strictly defined qualified majorities in certain cases. He explained that it was impossible for Parliament itself to define arbitrarily qualified majorities every time a draft law was submitted for voting. He asked the members of Parliament to consider the consequences of such a practice in the future since it would enable governments to submit draft laws that would allow organs of the executive power to be appointed by Parliament by qualified majorities each time defined by law. Furthermore, he explained that such a practice could form a mosaic of qualified majorities in the Greek legal order. That, in turn, he concluded, could lead to a legal insecurity since a law does not have an increased typical force in relation to another law, and thus if a law provided for a qualified majority in a certain occasion, it could be easily changed by another law in the future. Consequently, he stressed that Parliament could not define the rules upon which it functioned within the context of the exercise of its legislative power since that was the essence of the Constitution: a set of strict rules for the function of the parliamentary system. He insisted that new institutions, as the Ombudsman, should be legitimized in the conscience of the public through the respect of constitutional procedures. In his opinion, the members of Parliament should protect the institution and wait for the necessary revision of the Constitution, if they respected

⁹⁶⁵ Professor of Public Law at Athens University. In the national elections of 1996 he was elected State deputy with the New Democracy Party while in 2000, 2004, 2007 and 2009 he was elected Member of Parliament representing the 1st Athens constituency. He has been Deputy Minister of the Presidency and Spokesman for the Zolotas Coalition Government (1989-1990), Legal Advisor to the President of the Hellenic Republic, Constantinos Karamanlis (1990-1995), Spokesman for the New Democracy Party (1995-1997), Parliamentary Spokesman for the New Democracy Party (2000-2004), Minister of Interior, Public Administration and Decentralisation (2004-2007) and Minister of Interior (2007-2009). Source, Prokopis Pavlopoulos' web page, available at: http://www.prokopispavlopoulos.gr/index.php?option=com_content&view=article&id=119&Itemid=67, date of access, 03.08.2010.

the rule of law. Until then, he proposed that they should introduce the institution by taking into consideration the constitutional constraints.

Anastassios Peponis⁹⁶⁶, (PASOK), agreed with the reservations expressed by other members of Parliament regarding the constitutionality of the provision, and mentioned that if they were willing to upgrade Parliament and enhance its prestige, they were the ones who should respect the Constitution and stand in reverence before provisions that were fundamental for the function of the polity. He regretted that he had to remind the scientific staff of the Ministry of the Interior, Public Administration and Decentralisation that the Standing Orders they cited through the provision of the draft law were not autonomous from the Constitution. He clarified that the Constitution defines the scope of the Standing Orders, in other words, the Standing Orders regulate the functioning of Parliament, and do not define the competences of Parliament according to article 65 of the Constitution. He stressed that the proposed procedure for the election of the Ombudsman by Parliament had nothing to do with the functioning of Parliament since the provision clearly assigned competences to the Body. Nevertheless, in his opinion, it was obvious that the Standing Orders could define the competences of the internal organs of Parliament, organs which were related to the internal functioning of Parliament, but could not define competences of Parliament regarding the total functioning of the Polity. Regarding the issue of the qualified majority, he feared that if a qualified majority could not be attained, the Ombudsman should have to be elected by a simple majority in order to avoid deadlock since Parliament could not commit itself to attain a qualified majority. Nevertheless, in his opinion, simple majority could not serve the purpose of neutrality of the Ombudsman since the elected individual would be the organ of the governing party. Moreover, he stressed that such a procedure would expose candidates in relation to their political affiliations. He insisted once more that they would violate article 110 of the Constitution⁹⁶⁷, if they decided to overcome the boundaries of the competences of Parliament by proceeding to a revision of the constitutional provisions by simple legislative procedure. He added that constitutional legislators were aware of the problems created by qualified majorities, and thus introduced them to specific occasions. He emphasized that if there were political forces which wished,-or thought, believed, and proposed- that they should gradually be led to support the perception of a directorial system, that was an issue of major national and political relevance which was related to the form of the political system. He acknowledged that those forces could propose it, and fight for it, but the political system in force did not adopt the perception that Parliament had governmental competences since the principle of the separation of the basic functions of the Polity characterised the Greek political system. He proposed that they should formulate the provision according to the paradigm of other relevant clauses which provided for hearings of the candidates by the Standing Committee on Institutions and Transparency. Moreover, he stressed that the opinion of the Committee should influence the final selection. Finally, he warned that he would vote against the provision, and vote for its unconstitutionality, if government insisted on keeping it.

⁹⁶⁶ Anastassios Peponis, lawyer and politician. He was elected Member of Parliament in the national elections of 1977, 1981, 1985, 1989, 1993, and 1996, and served as Minister in various Ministries under the PASOK governments.

⁹⁶⁷ Article 110 of the Constitution refers to the procedure of its revision.

Fotis Kouvelis⁹⁶⁸, (SYN), following the statement of Anastasios Peponis admitted that he was personally an adherent of the perception that Parliament should acquire the attributes of a directorial system. Nevertheless, he clarified that taking into consideration the Constitution in force, and the principle of the separation of powers, the regulation regarding the election of the Ombudsman was deeply unconstitutional. He stated that if Members of Parliament were called upon to decide on the issue of the constitutionality of the draft law, his party would vote for its unconstitutionality for the reasons previously set forth.

The Deputy Minister of the Interior, Public Administration and Decentralisation, Anastasios Mantelis⁹⁶⁹, (PASOK), in his speech, defended the government's position

⁹⁶⁸ Fotis Kouvelis studied law and political science at Athens University. In 1987 he was elected president of the Athens Bar Association. He was elected Member of Parliament with the party of the Coalition of the Left and Progress in the elections of 1989, 1990, 1996, 2000, 2004, 2007, and 2009. He served as Minister of Justice under Tzanetakakis government from 2-7-1989 to 12-10-1989. In June 2010, he left Coalition and became independent Member of Parliament. He founded the party of the Democratic Left, and was elected president on July 10, 2010. He is member of the Greek Association of Penologists and the Greek Association of Constitutionalists. Source, Fotis Kouvelis' official web page, available at: <http://www.kouvelis.gr>, date of access: 04.008.2010.

⁹⁶⁹ He studied law at Athens University. He was elected Member of Parliament in 1981 with PASOK. During the period 1985-1989 he was appointed chairman of the board of the Hellenic Organisation of Telecommunications (OTE), and the Hellenic Post (ELTA). In 1993 he was appointed Secretary General of the Ministry of Industry, Energy and Technology, whilst in January 1996 he became Secretary General of the Cabinet. In 1994, he was exonerated by the Athens Council of Appeals for the case of direct award tenures to the companies Siemens Hellas and Intracom. In the elections of 1996 he was elected Member of Parliament, and was appointed Deputy Minister of the Interior, Public Administration and Decentralisation (1996-1997). From 1997 to 2000 he served as Minister of Transport and Telecommunications. He was elected Member of Parliament in the national elections of 2000, but failed to be reelected in the elections of 2004. In 2004 he was hired by European Profiles SA, an international consultancy company based in Athens, specialized "*in providing services to numerous institutional clients in transition and developing economies through the implementation of complex Technical Assistance projects financed by the EU, the World Bank and other international donors*" according to the company's web site, available at: http://www.europeanprofiles.gr/index.php?option=com_content&view=article&id=122&Itemid=53&lang=el, date of access: 04.08.2010). Mantelis first installed himself in Uzbekistan, then Russia, and finally Azerbaijan. During the investigation of the Siemens cash-for-contracts scandal – the case dealt with allegations that the Greek unit of Siemens bribed officials from Greece's two main political groups to win state contracts - by a parliamentary Committee, in May 2010, "*Anastasios Mantelis, who was transport minister under the PASOK government, reportedly told the parliamentary committee that 200,000 German marks which had been paid into the Swiss bank account of his best man, Giorgos Tsougranis, in November 1998 had been deposited there by Siemens on his behalf. Mantelis reportedly told the committee that the money had been given as a "pre-election donation" as he had been planning to run as a candidate for Greater Athens in the next parliamentary polls. Mantelis was also alleged to have claimed that the 200,000 marks given to him accounted for just a fraction of some 10 million marks paid to state officials by the firm in a bid to secure lucrative contracts. According to the probe, the 200,000 marks ostensibly given to Mantelis to fund an election campaign were not spent on electioneering. A portion of the money is alleged to have been spent on schooling fees for the former minister's son. The remainder was transferred to a Greek bank account in Mantelis's name after the Siemens bribery scandal broke in 2007 and the Greek judiciary informed Swiss authorities that it needed access to the account containing the suspicious funds*". (Source, Newspaper Kathimerini English Edition, May 27, 2010, available at: http://www.ekathimerini.com/4dcgi/_w_articles_politics_2_27/05/2010_117307, date of access: 04/08/2010). After his testimony before the parliamentary committee "*an Athens prosecutor charged the ex-minister with "seeking to legalize revenues from criminal activity" after it emerged that some of the cash Mantelis received from Siemens Hellas between 1998 and 2000 had been spent on his son's education. Authorities could not charge Mantelis with accepting the payments – which he had*

regarding the constitutional issues raised by the MPs. He mentioned that even the scientific committee of Parliament avoided saying explicitly whether there was a constitutional problem since it simply stated the issues raised by an institution which bore certain characteristics. He stressed that the government's intention was to achieve the archetypes of the Ombudsman, that is, independence through broad interparty acceptance, and democratic legitimacy. With regard to the Constitution, he stated that they should always move towards a broad interpretation of its provisions since a narrow interpretation would probably create problems. He reminded Parliament that in the history of the Nation the issue of unconstitutionality was the last taboo invoked in order to hinder progressive efforts that would move things forward. He went on saying that interpretation should always be broad, whereas the fundamental constitutional principles of the rule of law, egalitarianism, the protection of the citizens' rights, transparency and impartiality should prevail in the institutions they voted for. He stressed that they should assess whether the rule of law that comprised all the said constitutional values could be achieved through the new institution. Regarding the issue of the separation of powers, he reminded Parliament that the idea of the strict separation according to which each power was strictly entrenched was abandoned shortly after its enactment by the French Revolution since there was no real separation among them in practice. He supported his argument by making reference to the paradigm of the election of the heads of boards or CEOs of the Public Enterprises, Banks and Utilities (DEKO). According to that procedure provided for in the Standing Orders, the appointment of head of board or CEO of a DEKO should be approved by the Committee on Institutions and Transparency⁹⁷⁰, that is, a parliamentary committee. He wondered whether that procedure was equally unconstitutional since the CEO of a Public Utility was an organ of the executive that had to be approved by Parliament. Moreover, he explained that the legislative body should, in a way, follow and monitor the functions of the Executive Power. He also mentioned paradigms which proved that powers were complementary such as the rulemaking competences of certain independent administrative authorities or the elaboration of all presidential decrees of a general regulatory nature by the Council of State according to article 95, par. 1d of the Constitution. Within this context, he argued that the basic aim of the Greek Constitution and all progressive Constitutions was the functional intersection of all the powers in order to achieve balance among them. In his view, the concept of the separation of powers guaranteed the avoidance of the concentration of all powers in one organ. Consequently, whenever Parliament voted for provisions which satisfied that principle, the Constitution was respected. He stressed that such a practice gave new perspective to the Constitution since the need to proceed to minor changes every four years was made redundant. He supported his

described in testimony as "pre-election donations" – because the alleged misdeed has expired under the statute of limitations". (Source, Newspaper Kathimerini English Edition, May 28, 2010, available at: http://www.ekathimerini.com/4dcgi/_w_articles_politics_2_28/05/2010_117335, date of access: 04.08.2010). Sources for Anastasios Mantelis's CV, Wikipedia, available at: http://el.wikipedia.org/wiki/%CE%A4%CE%AC%CF%83%CE%BF%CF%82_%CE%9C%CE%B1%CE%BD%CF%84%CE%AD%CE%BB%CE%B7%CF%82, date of access, 04.08.2010

⁹⁷⁰ The information is inexact. The parliamentary Committee on Public Enterprises, Banks, and Utilities, established in 1989 by the Standing Orders, was competent for the formulation of an opinion in relation to the candidates nominated by the competent Minister for the posts of heads of boards or CEOs of Public Enterprises, Banks and Utilities. At the time of the discussions, the special permanent Committee on Institutions and Transparency did not have such competence according to article 43A of the Standing Orders (Government Gazette, vol. A', no 151/08.07.1996).

argumentation on the issue by claiming that England had an unwritten constitution established through the functioning of the parliamentary system. He insisted that MPs should not consider the draft law unconstitutional - a view that would postpone the introduction of the institution for four years, if they had to wait for a constitutional revision – since they should take into consideration that the Constitution was animated by the principle of the rule of law. Furthermore, he continued his argumentation by claiming that the Ombudsman did not pertain to the classic administrative bodies, and was not contained in the Constitution. It was widely accepted that the Ombudsman was an independent authority, and as such, it should evade the regulation implemented in the classic administrative organs.

With regard to the issue of democratic legitimacy, he admitted that government lacked the power to scrutinize independent authorities. In his view, that weakness could be substituted through the election and dismissal of the Ombudsman by Parliament. The proposed provision complemented by the discussion and control of the annual report by Parliament constituted fundamental functions of democratic legitimacy. Under such circumstances he wondered whether anyone could claim that the institutionalisation of that democratic legitimacy was unconstitutional simply because there was no reference of the word “democratic legitimacy” in the Constitution. Another issue that made him wonder was how they could possibly prohibit, without an explicit provision, since the precondition for prohibition was the existence of an explicit provision, the institutionalisation of such an authority especially when it institutionally guaranteed interparty consensus. He stated that interparty consensus was the fullest form of democratic legitimacy, especially when the organ to be institutionalised, the Ombudsman, had principally an adjudicatory character. Moreover, he wondered why they had the impression that in a parliamentary system there was no place for the necessary cooperation between the parliamentary groups and the government. In his opinion, it was obvious that government took responsibility for its actions, but still it sought to pass these actions through the judgement of Parliament. Moreover, he wondered why they had to deprive a democratic institution of the possibility to be elected by the whole of the Greek Parliament, that is, the whole of the Greek public opinion in order to guarantee its independence. Regarding the issue of the qualified majority, he explained that the provision in the draft law was not binding and only expressed the intention of the government since it was simply a recommendation that would be regulated by the Standing Orders in the future. He proposed that they could eliminate the wording “qualified majority”, if parliament finally disagreed upon its inclusion in the provision. He argued that the final decision upon a qualified or a simple majority would be taken by parliament during the revision of the Standing Orders. He stated that the government’s proposal was to elect the Ombudsman by a qualified majority of three fifths.

Dimitris Sioufas, the Parliamentary Representative of the major opposition (New Democracy), regretted that the Deputy Minister had not succeeded in convincing Parliament that the government was right in insisting on the issue of the election of the Ombudsman, on the one hand, and the issue of the qualified majority, on the other. He said that both issues were presented with scientific and legal clarity by Professor Pavlopoulos on the part of New Democracy, and Mr. Peponis on the part of the majority, and waited for the official position of the government, that is, the speech of

the Minister⁹⁷¹ who had the political responsibility for the issue. He proposed to discuss the clauses in the next session; otherwise, he would put the issue of the constitutionality of the provisions before Parliament in order to decide according to article 100 of the Standing Orders⁹⁷². He declared that his party supported the view that government should appoint the Ombudsman upon recommendation of the Parliament, whereas the issue of the qualified majority should be abandoned.

Stratis Korakas, (Communist Party of Greece/KKE), reminded the MPs of the fact that they had recently voted for the provision regarding the election of the heads and members of the board of the Hellenic Data Protection Authority by the Conference of Presidents⁹⁷³. He stressed that it was one more competence assigned to a Body of Parliament, the Conference of Presidents, not even Parliament itself, which was created by the Standing Orders with concrete competences: the definition of the duration of sessions. He reminded Parliament that they had voted for the provision, and the Speaker had simply declared that those issues should be examined in the next revision of the Standing Orders. Nevertheless, he stressed that, according to the views developed during the session, doubts were expressed upon the power of Parliament to define and assign itself new competences, and broaden them, a procedure that normally pertained to the jurisdiction of the Constitution. He said that they considered that those issues were open, but supported that they should be very attentive, and should not act hastily in the promotion of the legislative work.

Leonidas Avdis⁹⁷⁴, (Communist Party of Greece/KKE) stressed that they could not conceal the unconstitutionality of article 2 regarding the issue of the appointment of the Ombudsman. He explained that he had the hope that government would have dealt with it, and would have proceeded to certain modifications following the relevant discussions in the Standing Committee. He emphasized that government did not settle the matter despite the fact that the Scientific Committee of Parliament explicitly posed the issues of unconstitutionality. He believed that during discussions in particulars all necessary modifications would be effected; otherwise, it would be impossible to pass the draft law. Moreover, he expressed his great concern regarding the speech of the Deputy Minister. In his opinion, the method of interpreting the Constitution upon the basis of certain general principles or the legitimisation of draft laws straight upon certain general constitutional principles was not only legally dubious and doubtful, but also democratically poor. Moreover, he claimed that such legitimisations based upon the democratic principle, the general interest, the salvation of the Homeland and so on, were close to practices applied by authoritarian regimes.

⁹⁷¹ The Deputy Minister of the Interior, Public Administration and Decentralisation, Anastasios Mantelis, had already informed Parliament that the Minister apologized for being absent because he had to participate in an extraordinary session of the governmental committee.

⁹⁷² Article 100 par. 1 of the Standing Orders entitled "Issues of unconstitutionality" reads as follows: "*The Speaker of Parliament and each member of Parliament or member of the government may ask Parliament, during discussions in principle, to decide upon certain reservations he expresses regarding the constitutionality of a draft law or a proposal for a law*".

⁹⁷³ The draft law "*Protection of the individual against the processing of personal data*" was discussed in principle on March 12, 1997, and in particulars, on March 13, 18, and 19, 1997.

⁹⁷⁴ Leonidas Avdis (1937-2000) was a lawyer and politician. During the dictatorship he was exiled to the island of Sikinos. In 1994 he was elected Municipal Councillor to the Municipality of Athens (Dimos Athinaion). He was elected Member of Parliament in 1996 with the Communist Party of Greece, and resigned in May 1997 in order to get involved in the Municipality of Athens. Information available at: <http://www.avdis.gr/1-2-2-BIOGRAFIKA1.htm>, date of access: 06.08.2010.

Styliani Alfieri (SYN), agreed with the position of the Special Speaker of her party, Fotis Kouvelis, regarding the unconstitutionality of the draft law, and stressed that irrespective of the benefits that citizens would gain from the new institution, it would not have to be passed by violating the Constitution. She insisted that government should examine and resolve the issue.

Georgios Tsafoulas (DIKKI), referring to the speech of the Deputy Minister, wondered how it would be possible to judge the constitutionality or unconstitutionality of the provisions on the basis of the general principles of egalitarianism, protection of the rights, and the rule of law. He argued that the invocation of general philosophical principles would lead to interpret everything on the basis of those principles. He asked which clause in the Constitution provided that, each time a draft law was submitted, they would have to evaluate its content, and, consequently, decide upon its constitutionality based upon those principles. He claimed that dictatorial regimes, as that of Papadopoulos⁹⁷⁵, also exercised their autocratic rule in the name of justice, egalitarianism, rule of law. In his view, the Deputy Minister should not use such concepts in order to combat the value of the concept of constitutionality of a provision. He stressed that the Constitution was established with blood, effort, and fights and they could not decide upon whether something was constitutional simply because it was dictated by the general principle of egalitarianism, the protection of rights and the rule of law. He believed that the invocation of those vague postulates could not abolish explicit constitutional clauses. Moreover, he claimed that they could neither extend the competences of Parliament, nor support that the election of the Ombudsman pertained to the provisions regarding the function of Parliament on the basis of the general principles since there was no such content in article 65 of the Constitution. He wondered how they could possibly overcome the clauses regarding the interpretation of the Constitution and the laws in order to arrive at the government's point of view simply because they wanted to do so. He claimed that they, the legislators, would be accused of violating any rule of interpretation or any rule of constitutional provision in the name of those principles. He explained that those principles were established during the French Revolution, and Constitutions were established in their name. Furthermore, he reminded that constitutional provisions were formulated based upon the content of those principles. He stressed that the Minister disregarded the stage of the effectuation of the constitutional provisions since he supported that it should be omitted in the name of those principles. He reminded that they were in Parliament; there were laws, the Constitution, and constitutional provisions. Addressing himself to the Deputy Minister, he said that the Deputy Minister should not transfer the spirit of a preacher into Parliament. He declared that the MPs had no right to proceed to something like that, and his party would resist by the creation of a defensive review against all those proclamations. He announced that his party supported the following solution: the Standing Committee on Institutions and Transparency would propose the Ombudsman and the government would be bound to proceed to the appointment. Regarding the issue of the qualified majority, he stressed that it was a constitutional overthrow. Finally, he supported the proposal of the Parliamentary Representative of

⁹⁷⁵ G. Papadopoulos, leader of the military-dictatorial regime set up in Greece following the coup in April 1967.

New Democracy, Dimitrios Sioufas, regarding the need for further discussions upon the constitutionality of the provisions in the next session.

The Minister of the Interior, Public Administration and Decentralisation, Alexandros Papadopoulos⁹⁷⁶ (PASOK), admitted the fact that certain legal and constitutional issues were raised. He declared that following the proposals, comments and discussions which had previously taken place, there would be an adjustment to the provision, and the Ombudsman would be approved by the Committee on Institutions and Transparency according to the Standing Orders. He announced that the final formulation of the provision would be presented during discussions in particulars.

The Parliamentary Representative of New Democracy, Dimitrios Sioufas, expressed the satisfaction of his party, announced that they would vote for it and declared that they withdrew their proposal to raise an issue of unconstitutionality of the draft law according to article 100 of the Standing Orders. Anastasios Peponis, PASOK, also expressed his satisfaction since the Minister confirmed his proposal. He explained that the special permanent Committee on Institutions and Transparency had no competence to elect and appoint, whereas the Committee on Public Enterprises, Banks, and Utilities⁹⁷⁷ simply expressed an opinion which had an increased prestige. He underlined that if the majority of the Committee decided negatively, it would be difficult for a democratically sensitive government to ignore the opinion of the Committee. He proposed that they should continue that tradition which had first been formulated in 1989, and amended through time. Thus, he suggested that in the case of the Ombudsman, the competent parliamentary Committee, either the Committee on Institutions and Transparency or any other, should express an opinion. He stressed that if they decided that the opinion should be expressed by a qualified majority, they should be able to foresee what they would do in case the qualified majority was not attained. He expressed his personal disagreement with the practice of qualified majority in the expression of opinion since it would create political problems, and doubts over the prestige of the proposed individual. In other words, in his opinion, it meant that an individual rejected by a qualified majority, would be finally supported by a simple majority.

The Minister, Alexandros Papadopoulos, stressed that the proposed regulation regarding the selection mechanism of the Ombudsman through parliamentary consensus was transitional. He announced that the intention of the government was to consolidate those procedures through the imminent Constitutional revision since the institution needed the prestige of Parliament. Finally, the Deputy Minister, Anastasios Mantelis, said that he owed an explanation to Parliament since his views were interpreted in various ways. He explained that it was obvious that the government sought for a broad interparty acceptance not only during the phase the institutionalisation, but also during the implementation of the institution. He noticed

⁹⁷⁶ Alexandros Papadopoulos is a lawyer and politician. He was elected Member of Parliament in the elections of 1989, 1993, 1996, 2000, 2004, and 2007 and served as Minister in the Ministry of Finance (1994-1996), the Ministry of the Interior, Public Administration and Decentralisation (September 1996-February 1999), and the Ministry of Health (April 2000-June 2002) under the PASOK governments. Source Alekos Papadopoulos's website, available at: <http://www.apapadopoulos.gr/main/ministergr/ministergr.htm>, date of access:06.08.2010.

⁹⁷⁷ The Committee on Public Enterprises, Banks and Utilities has the competence to formulate an opinion upon the nominees proposed by the competent Minister as chairmen of the management boards of Public Enterprises, Banks and Utilities according to article 49A of the Standing Orders.

that some of his colleagues had the impression that the views he expressed in his effort to defend the position of the government were extreme and undemocratic. He argued that the proposal of the government was that the institution of the Ombudsman should have democratic legitimacy by the large majority of the Greek Parliament. And he continued by saying that the government's proposal could not be interpreted as undemocratic no matter how hard they tried to harm their political opponent. Finally, he stated that their initial proposal that the Ombudsman should be elected by Parliament constituted the maximum of democratic legitimisation, whereas their final decision that the organ should be approved by the Standing Committee on the Institutions and Transparency still guaranteed a minor precondition of democratic legitimacy which should always prevail.

7. Discussions of the Committee on the revision of the Constitution regarding the new article 101A

i. The first session of the Committee on the revision of the Constitution: Two alternative proposals set by the Rapporteur of the Majority

During the first session that was held on October 17, 2000, Antonios Skyllakos, the MP of the leftist party of the minor opposition, the Communist Party of Greece (KKE) was absent. The General Rapporteur of the Majority, Evangelos Venizelos, (PASOK), in his introductory speech, made clear that through the selection mechanism which would be established in the Constitution they expressed their will that they did not intend to create interparty authorities which operated on a compensatory basis among parties or social and productive groups. In his opinion, those authorities should be composed of outstanding personalities, thus achieving broad acceptance and legitimacy. He mentioned that the initial proposal of his party was that the members of the independent authorities should be elected by a parliamentary organ, the Conference of Presidents, with a qualified majority of three fifths upon proposal of the competent Minister. He informed the MPs that the proposal was rejected by the opposition since the governing party secured that majority on its own due to the composition of the organ⁹⁷⁸. He proceeded to present two alternative proposals: the first version provided that the individuals that would compose the authorities were proposed by the Speaker of Parliament and the proposal was submitted to the Conference of Presidents. In his view, the Conference was the most appropriate organ for consultation in order to achieve consensus. He admitted that the Speaker was a member of the governing party, but went on to explain that his institutional role and prestige made him suitable for the formulation of a proposal which had many chances to be accepted after all necessary consultations with the interested parties. He stressed

⁹⁷⁸ The composition of the organ is fluctuating according to the number of i) the Standing Committees, ii) the independent parliamentarians, and iii) the former Speakers of Parliament that have been elected in office. The arithmetic predominance of the parliamentary majority in the Conference of Presidents exceeds the one provided for the parliamentary committees that are established in proportion to the strength of parties, groups and independents as specified by the Standing Orders according to article 68, par. 3 of the Constitution. According to the last amendment of the provision regarding the composition of the Conference of Presidents by the Standing Orders (Official Gazette, vol. A, 151, 8.06.1996), the organ is composed of the Speaker of Parliament, the former Speakers of Parliament, in case they have been elected in office, the Vice Speakers of Parliament, the Presidents of the Standing Committees, the President of the Committee on Institutions and Transparency, the Presidents of the Parliamentary Groups, and one independent MP, as representative of the independents, in case there are at least five of them (article 13 of the Standing Orders, as in force. Government Gazette, vol. A', no 151/-8.07.1996).

that the members of the body would seek to reach unanimous decisions. Nevertheless, in case they failed, they would have to decide with a qualified majority of three fifths. He reminded them of the successful implementation of the analogous provision regarding the selection of the President and Vice President of the National Council for Radio and Television since the nominees had always been proposed unanimously by the Conference of Presidents.

The second version proposed by the Rapporteur provided that the proposal of the nominees was submitted by the competent Minister after consultation with the political parties and social groups to the competent Standing Committee. He explained that the competent Standing Committee would seek to attain a qualified majority of three fifths. In case the Committee failed to achieve that after repeated voting -twice or three times-, the decision would be taken by a simple majority (the absolute majority) of votes, whereas the Minister and the government bore responsibility for their failure to attain a qualified majority. Moreover, he clarified that those proposals were collective, that is, all nominees should gather a qualified majority of votes. Finally, he informed the MPs that during discussions in the Standing Committee on Public Administration and Justice the Coalition (SYN) through its President Mr Konstantopoulos⁹⁷⁹ had supported the first proposal, and announced that he shared his view.

The General Rapporteur of the Major Opposition, Ioannis Varvitsiotis⁹⁸⁰, (New Democracy), declared that he rejected both versions as appalling since they finally facilitated the predominance of the governing party. Moreover, he emphasized that the provisions of the Constitution should not be burdened by partisan tendentiousness. He clarified that they would accept the first version of the proposal, if two preconditions were satisfied: first, a qualified majority of four-fifths, and, second, the stable composition of the Conference of Presidents that would permit the attainment of the said majority. The General Rapporteur of the Majority asked what would happen, if the four fifths were not attained. Ioannis Varvitsiotis replied that the authority should cease to operate as an independent authority, and political parties should take their responsibilities for that failure.

The General Rapporteur of the Coalition, Fotis Kouvelis, (SYN), supported the view that the Conference of Presidents was the appropriate organ to select the members of the authorities by a qualified majority of four fifths since the effective function of an independent authority demanded the continuous consensus of the political forces, the parties, in order to fulfil its work. He also referred to the draft law on the amendment of the legislation regarding the National Council for Radio and Television that was about to be submitted to the plenary assembly of the Parliament. More specifically, he

⁹⁷⁹ He is a lawyer, politician, and ex-president of the left-wing party of Coalition (1993-2004). He served as Minister of the Interior in the Tzannetakis government, the coalition government between the right-wing and left-wing parties, in 1989. In 2010 he was elected President of Panathinaikos F.C. He served at the post 57 days since he took over as President on July 13, 2010 and resigned on September 8, 2010.

⁹⁸⁰ He studied law and has a PhD in Corporate Law. He was first elected MP in 1961. Since then he was reelected in all elections (1963, 1964 with the party of ERE and 1974, 1977, 1981, 1985, June 1989, October 1989, 1990, 1993, 1996, 2000, with the party of New Democracy). He served as Minister in various Ministries under the New Democracy governments. In 2004 he was elected member of the European Parliament. Source, National Book Centre, available at: <http://www.ekebi.gr/frontoffice/portal.asp?cpage=NODE&cnode=462&t=1440>, date of access

emphasized that they considered that all the parties through the procedure of the Conference of Presidents were legitimised and recognised as carriers of suggestions and proposals.

Charalambos Kastanides⁹⁸¹ (PASOK), supported the view that the members of the independent authorities, either collective or single-headed, should be elected by the competent Standing Committee by a qualified majority of three-fifths regardless of whether the proposal was submitted by the competent Minister. In his opinion, the main precondition that had to be fulfilled in the procedure was not the person who submitted the proposal, either the Minister or the Speaker of Parliament, but the increased number of the members who participated in the selection organs. He explained that the selection organs should not be single-headed or composed of few members since they provided few guarantees. Moreover, he claimed that he did not fear that the selection would finally fail since government wanted the operation of independent authorities, whereas the opposition would be irrational if it blocked the constitution of an authority which eventually facilitated its recognized role of the control of power.

Prokopis Pavlopoulos, (New Democracy), rejected the proposal of the General Rapporteur of the Majority since the members of the independent authorities were selected by the governmental majority. In his view, the parliamentary organ for the selection should be either the Standing Committee on Institutions and Transparency, which was competent for the parliamentary review of the authorities as provided for in the Standing Orders, or the competent Standing Committee. Furthermore, he proposed that the executive laws of the appointments clause should define certain criteria for the selection. He also suggested two different selection mechanisms depending on whether the authorities were collective bodies or single-headed. In the case of collective bodies –the heads of the authorities excluded- the political parties would propose the triple number of the nominees they were entitled to, whereas the Committee on Institutions and Transparency would decide by a qualified majority of three fifths. If that failed, parties would propose the candidates in proportion to their strength in Parliament based upon the criteria provided for in the law. In the case of single-headed authorities and the heads of the management boards of the authorities, the Conference of Presidents would decide by a qualified majority of four-fifths. The General Rapporteur of the Majority pointed out that his proposal was based upon an interparty logic, and thus promoted party dealings. He stressed that according to previous experience, as in the case of the selection of the members of the National Council for Radio Television, he was not convinced that parties eventually nominated independent personalities since it had been proved that those appointed were party members. Prokopis Pavlopoulos emphasized that there was no party bargaining when specific selection criteria were defined by the law.

Anna Psarouda-Benaki, (New Democracy), supported the view that the institution of the independent authorities should be strengthened through the enhancement of the role of the Parliament, the role of the parties, and the rights of the parliamentary minority. In her opinion, if they moved towards a qualified majority of four fifths, it would be a satisfactory solution since a small party of the minority or the major

⁹⁸¹ He is a lawyer and politician. He is constantly elected in Parliament since 1981. He served as Minister in various Ministries under the PASOK governments. Source, Kastanides's website, available at: <http://www.kastanidisharis.gr/index.php?action=constant&id=15>, date of access: 12.08.2010.

opposition could participate in the formulation of the final result without the participation of the governing party. Moreover, she expressed her disagreement with the Pavlopoulos's proposal since party representatives in the composition of the authorities could not guarantee their proper and independent functioning as they became carriers of the party orders. In case of failure of the attainment of the said qualified majority, the independent authority would automatically be degraded to the status of a collective administrative organ. In her view, such an undesirable result harmed the prestige of the Parliament and the executive power, and thus could serve as a deterrent. Ioannis Kefalogiannis⁹⁸² (New Democracy), argued that Parliament should not transfer its powers, which people had entrusted to them, to any other levels or organs or extra institutional centres. He suggested that Parliament should appoint the members of the authorities by a qualified majority upon proposal of the Speaker. He argued that the MPs could not disclaim that responsibility. Moreover, he argued that it was politically inconceivable that the MPs of the Hellenic Parliament, as representatives of the popular sovereignty and the political power, were not in the position to agree upon the constitution of the independent authorities, which would be responsible not only for the protection of the public interest, but also the protection of the honour and dignity of the political world of the country.

Konstantinos Mitsotakis⁹⁸³, (New Democracy) supported Mrs Benakis's proposal, and fiercely disagreed with the participation of party representatives in the composition of

⁹⁸² A Greek politician (1932-2012). He studied medicine and was a PhD holder. He came from an old family of politicians of the island of Crete. He was elected Member of Parliament in 1958, 1961, 1963 with the right wing party of ERE, and since 1974 he was continuously reelected until 2004 with the right wing party of New Democracy. He served as Minister in various Ministries under the New Democracy governments. In 2007 he retired from politics as his daughter, Olga, was elected MP in his seat in Crete, and became informal advisor of the Prime Minister Kostas Karamanlis. He was accused and convicted in 2008 to five months imprisonment with a three year suspension for having pressured police officers to scrap evidence in an attempt to protect a cannabis grower in Crete. In January 2010, the Hellenic Supreme Court of Civil and Penal Law rejected the petition for suspension submitted by the convicted former deputy, and ratified the decision of the Court of Appeals. Sources, CNN, available at: <http://edition.cnn.com/2008/WORLD/europe/09/23/greece.minister.ap/index.html>, date of access, 12.08.2010, Newspaper Avgi, available at: <http://www.avgi.gr/ArticleActionsShow.action?articleID=519056>, date of access, 12.08.2010, Wikipedia, available at: http://el.wikipedia.org/wiki/%CE%93%CE%B9%CE%AC%CE%BD%CE%BD%CE%B7%CF%82_%CE%9A%CE%B5%CF%86%CE%B1%CE%BB%CE%BF%CE%B3%CE%B9%CE%AC%CE%BD%CE%BD%CE%B7%CF%82, date of access, 12.08.2010.

⁹⁸³ He is a politician and former Prime Minister (1990-1993). In 1994 he was indicted for tapping. The prosecution was suspended by parliamentary decision on January 16, 1995. In 1994 the Prime Minister, K. Mitsotakis, the Minister of Finance, J. Paleokrassas, and the Minister of Industry, Trade and Technology A. Andrianopoulos were indicted for the case of the sale of AGET, a state-owned enterprise in difficulty. Mitsotakis was accused of inciting a breach of trust, passive corruption and misconduct. The Ministers were both accused of dishonesty and misconduct. The prosecution was suspended by parliamentary decision on January 16, 1995. Source, Wikipedia, available at: [http://el.wikipedia.org/wiki/%CE%95%CE%B9%CE%B4%CE%B9%CE%BA%CF%8C_%CE%94%CE%B9%CE%BA%CE%B1%CF%83%CF%84%CE%AE%CF%81%CE%B9%CE%BF_\(%CE%A5%CF%80%CE%BF%CF%85%CF%81%CE%B3%CE%BF%CE%B4%CE%B9%CE%BA%CE%B5%CE%AF%CE%BF\)](http://el.wikipedia.org/wiki/%CE%95%CE%B9%CE%B4%CE%B9%CE%BA%CF%8C_%CE%94%CE%B9%CE%BA%CE%B1%CF%83%CF%84%CE%AE%CF%81%CE%B9%CE%BF_(%CE%A5%CF%80%CE%BF%CF%85%CF%81%CE%B3%CE%BF%CE%B4%CE%B9%CE%BA%CE%B5%CE%AF%CE%BF)), date of access: 16.08.2010.

the authorities. He was confident that the competent selection committee would find and propose the persons who would undertake that task since he believed there were still honest people in the country for whom the MPs had no information on their party affiliations. As for the draft law on the amendment of legislation regarding the National Council for Radio and Television which was about to be submitted in the Plenary assembly of the Parliament, he considered it as inadmissible in the sense that the selection mechanism of the members of the National Council for Radio and Television would be discussed and voted before the final formulation of the relevant clause by the Constitution. In his opinion, it was a way to prejudice the decision of Parliament, and suggested that the government should withdraw the clause from the draft law. The General Rapporteur of the Majority, Evangelos Venizelos, agreed upon that suggestion, and went on formulating a new proposal based upon what was previously said by the MPs: the Speaker of Parliament proposed, the constitutionally consolidated [sic] Conference of Presidents decided unanimously or, at least, by a qualified majority of four fifths. In case they failed to attain the said majority, -which he doubted- despite the fact that it was a procedure in which the Speaker of Parliament, the political parties with their official representatives, the Conference of Presidents were engaged, they should provide for a mechanism for the constitution of a simple collective organ. Nevertheless, he was confident that the selection procedure would succeed. Prokopis Pavlopoulos replied that degrading the independent authorities to the status of common public services practically led to their abolishment. Moreover, he explained that under such circumstances the government should propose the individuals it preferred for those posts since it had the majority, whereas the opposition was indirectly forced to follow the majority's proposal, otherwise, they would all bear the burden of degrading the independent authorities to common public services.

Charalambos Kastanides, (PASOK) insisted that he preferred collective organs with many members since they provided more guarantees of independence and credibility, and rejected once more the version of the Conference of Presidents despite the fact that he expressed his deep respect for all those who composed that organ.

ii. The second session of the Committee on the revision of the Constitution: the role of the political parties in the nomination procedure and the proposal of the competent Standing Committee as the appropriate organ for the selection

During the second session that was held on the morning of October 18, 2000, Fotis Kouvelis, the MP of the leftist party of the minor opposition, the Coalition (SYN), was absent. The General Rapporteur of the Majority, Evangelos Venizelos, (PASOK), submitted a note on the proposal of the provision for the selection mechanism⁹⁸⁴. Antonios Skyllakos⁹⁸⁵, (KKE), expressed the disagreement of his party over two

⁹⁸⁴ The proposed provision read as follows: “*The members of the authorities are selected upon decision of the Conference of Presidents with the intent to attain unanimity, or at least, by a qualified majority of four-fifths of those present. If the said unanimity is not attained, it is considered that are selected and appointed those who gathered a qualified majority of three-fifths of the members present, whereas the selection procedure for those members who did not gather a qualified majority of four-fifths is repeated after six months. All relevant issues regarding the selection procedure are specified by the Standing Orders of Parliament*”.

⁹⁸⁵ He is a lawyer and politician. Since 1989 he is elected Member of Parliament. Source, Website of the Hellenic Parliament, available at: <http://www.hellenicparliament.gr/Vouleptes/Viografika-Stoicheia/?MPId=1788a2eb-3531-474e-af3a-ec9a08e54cdd>, date of access: 13.06.2010.

issues: first, the final and decisive role of the governmental majority in the selection mechanism, and second the exclusion of the political parties from the selection procedure, and subsequent exclusion of party representatives from the composition of the boards of the authorities.

Vasilios Kontogiannopoulos⁹⁸⁶, (New Democracy) supported that the members of the authorities had to be selected by the competent Standing Committee by a qualified majority of three fifths. Moreover, he agreed with Mrs Benakis's and President Mitsotakis's proposal that in case they failed to attain unanimity, all the political forces should accept the cost, and thus those authorities would operate as public services.

Anastasios Nerantzis⁹⁸⁷, (New Democracy) argued that the main issue regarding the selection mechanism was not the organ which had to decide, but the qualified majority that would be applied. He stressed that he preferred an independent authority of interparty composition, and reminded that they did not have much leeway in the achievement of an agreement upon the individuals who had to be selected.

The General Rapporteur of the Majority, Evangelos Venizelos, summarised the previously exposed prevailing proposals that formulated the following procedure: The competent Standing Committee would decide upon the selection. The Standing Orders would define the competent Standing Committee. The competent Minister would submit a proposal. Proposals could also be submitted by the parties. He wished that those proposals would not assume a partisan character, but would be the result of consultation. The members of the authorities would be selected by a qualified majority of the three-fifths of the members present of the competent Standing Committee. In case the attainment of the said majority for all the members failed, despite all efforts, the authority would temporarily be complemented by those individuals who would have taken the majority of votes. Those members who did not gather the qualified majority of the three-fifths would participate to a new selection procedure after six months⁹⁸⁸. He claimed that such a procedure guaranteed broad consensus, and demanded a continuous effort in order to achieve it. Moreover, he stressed that the competent Standing Committee kept contact with the independent authority, and thus contributed to its proper function despite the weakness to gather a

⁹⁸⁶ He studied law, and was continuously elected MP from 1974 until 2000. He served as Minister and Deputy Minister under the New Democracy governments, the Tzannetakis cooperation government, the Zolotas ecumenical government. In 1998 he was expelled from the party of New Democracy, and joined the party of PASOK. In 2000 he was elected MP with the party of PASOK. He participated as Deputy Minister of Health in the Simitis's last government. Source, Kontogiannopoulos's official website, available at: <http://www.kontogiannopoulos.gr/index.php?lang=gr&sec=1&ctg=12>, date of access: 13.08.2010.

⁹⁸⁷ He studied law and was elected MP in the elections of November 1989, October 1993, September 1996, April 2000, March 2004, September 2007 with the party of New Democracy. He served as Deputy Minister of Transport and Communication (2004-2006), and Deputy Minister of Development (2006-2007) under the New Democracy governments.

⁹⁸⁸ Evangelos Venizelos explained that within the repeat process they could enlarge the list of nominees with new candidates apart from those who had not initially gathered a majority of three-fifths during the previous procedure. Charalambos Kastanides improved the wording of the provision as follows: ". . .the procedure for those members who did not gather the qualified majority is repeated among them or/and other persons, after six months".

qualified majority for its constitution. The President of the Committee, Phoibos Ioannides, asked whether the three-fifths corresponded to the whole number of the members of the competent Standing Committee or to the members present. Evangelos Venizelos replied that it corresponded to the members present, and explained that if a party wanted to abstain from the procedure, it could do so by taking the responsibility.

Antonios Skyllakos (KKE) expressed his intense disagreement with the formulation of the provision. He was deeply concerned with the reversal of the previous regime regarding the selection mechanism of the National Council for Radio and Television which was politically relevant and crucial. He stressed that until then each party appointed directly its representatives, whereas the new system provided that parties simply proposed their nominees. He explained that the majority of the three-fifths could reject the proposals of the smaller leftist parties, and thus a vested right was violated; it was taken back by the parties of PASOK and New Democracy. The President of the Committee, Phoibos Ioannides⁹⁸⁹, clarified that the new clause did not provide for an interparty authority. Antonios Skyllakos claimed that they should be sincere and admit that the parties would propose, but the majority would decide whether a candidate of the Communist party would be finally appointed.

Konstantinos Mitsotakis (New Democracy) argued that he completely disagreed with Antonios Skyllakos. Moreover, he stressed that it would be a big mistake, if the wording of the clause in the Constitution explicitly provided that the Minister and the parties proposed the nominees. He suggested that the wording of the provision should be simple and make only reference to the issue of the majority. From then on they would have the chance to select the best. He explained that if the parties proposed, the nominees bore the stamp of partisanship. In his opinion, there would be reactions from the other parties, as the ones previously described by Antonios Skyllakos. He insisted that the Standing Committee should select the best candidates with a qualified majority without making any reference on the procedure, and without identifying the nominees with party affiliations. He reminded that the participation of party representatives in the composition of the National Council for Radio and Television that had led to the failure of the authority. Evangelos Venizelos agreed with that view.

Ioannis Varvitsiotis (New Democracy) stressed that the parties should have the right to propose candidates. He wondered why a political party could not propose a competent, uncorrupted person. He believed that such a person would not be voted on the basis of her party affiliation. Konstantinos Mitsotakis replied that nobody claimed that parties should not have such a right. He explained that it should not be explicitly formulated in the provision of the Constitution since there would be a misunderstanding. Ioannis Varvitsiotis (New Democracy) still expressed his disagreement, and explained that as Rapporteur of the major opposition he had agreed upon the formulation of the provision after consultation with Mr Venizelos.

Charalambos Kastanides (PASOK) agreed that the appointments clause should make no reference to the persons or institutions that had the right to propose the candidates of the authorities. He explained that there was no reason to define that since the political parties were an institution recognised in the Constitution. In his opinion, it

⁹⁸⁹ He studied law and was elected MP for the first time in 1989. He served as Deputy Minister of Health, Welfare and Social Security (1993-1995) and Deputy Minister of Development (1996) under the PASOK governments.

was obvious that there would be a consultation process among the political parties before the submission of the final proposal to the competent parliamentary committee.

Evangelos Venizelos proposed that they should vote upon the issue during the evening session since there were disagreements. He argued that two more issues were raised. First, he claimed that it would be difficult to find credible and serious persons who would accept to exercise their functions for six months in case their candidacy failed to attain the necessary qualified majority. Second, he reminded that the Speaker of Parliament had the power to select the president of the National Council for Radio and Television according to the law 2173/1993, and wondered whether it was elegant to deprive him of that competence. He proposed that they should decide upon those issues during the evening session. Finally, he declared that he would continue consultations with the left-wing parties, Coalition and the Communist Party since he wanted to prove that the government followed democratic practices and the perceptions of the smaller parties were fully respected.

iii. The third session of the Committee on the revision of the Constitution: an illegitimate voting and the reintroduction of the Conference of Presidents to the discussion

During the third session that was held on the evening of October 18, 2000 a number of articles were voted. The President of the Committee, Phoibos Ioannides, suggested that they should vote article 101A the day after since they did not have the final formulation of the provision. The General Rapporteur of the major opposition, Ioannis Varvitsiotis (New Democracy), replied that they had completed the formulation of the provision during the morning session. The General Rapporteur of the majority asked whether they were about to vote for article 101A. The President of the Committee confirmed that they would vote for it; that was certain. He went on by asking the Body whether the article was accepted. All MPs replied that it was accepted. The President of the Committee, Phoibos Ioannides, announced that article 101A was unanimously accepted.

Nevertheless, despite the voting, the General Rapporteur of the Majority, Evangelos Venizelos, brought back the issue of the selection mechanism for further discussion. He claimed that due to the serious remarks exposed by President Konstantinos Mitsotakis, (New Democracy), the reservations and objections expressed by the MP of the Communist party (KKE), Antonios Skyllakos, and the absence of the MP of the Coalition (SYN), Fotis Kouvelis, from the session the previous day, they should try to set a framework that would guarantee the core of their agreement. The President of the Committee, Phoibos Ioannides, announced that they would continue to discuss the issue the day after. Before the interruption of the session, the General Rapporteur of the Coalition, Fotis Kouvelis, (SYN) and the General Rapporteur of the major opposition, Ioannis Varvitsiotis (New Democracy) spoke. Fotis Kouvelis argued that the members of the National Council for Radio and Television should be selected by the Conference of Presidents by a qualified majority of four-fifths. He claimed that it was the appropriate organ for the exchange of views, the evaluation and assessment of the proposals of all the political parties. He announced that his party would not renege on its position regarding the selection organ. He stressed that if they were willing to

deal with the issue of intermeshed interests⁹⁹⁰, they should select a qualified majority in the context of the function of the Conference of Presidents that would guarantee greater democratic support and social representativeness. The Rapporteur of the major opposition, Ioannis Varvitsiotis, (New Democracy), claimed that the Conference of Presidents was an organ mostly formulated by the Majority and did not have the democratic legitimacy of the Standing Committees. Fotis Kouvelis argued that the qualified majority of four fifths did not only correspond to the governmental majority. Ioannis Varvitsiotis announced that his party would not accept any change in the provision as formulated in the morning session, and declared that it was obvious that the Majority reneged on its initial position. Evangelos Venizelos replied that they should respect the agonies of the small parties.

iv. The fourth session of the Committee on the revision of the Constitution: the Conference of Presidents as the competent organ for the selection of the members of the authorities by a qualified majority of four-fifths.

The fourth session was held on the morning of October 19, 2000. After the introductory speech of the President of the Committee regarding the procedure to be followed during the session, the Rapporteur of the major opposition, Ioannis Varvitsiotis, (New Democracy) claimed that they had already entered the stage of voting, that they had already agreed upon the formulation of article 101A the previous day, and that the voting was interrupted thus violating the provisions of the Standing Orders. The President replied that Mr Venizelos had to contact the other parties in order to agree upon the formulation of the final proposal upon which the MPs would have to vote. Ioannis Varvitsiotis insisted upon his claim, whereas the President of the Committee expressed his disagreement, and argued that even if there had been some kind of irregularity, he would have accepted it since they dealt with major issues as the Constitution. The General Rapporteur of the Majority, Evangelos Venizelos, admitted that they had agreed with the party of New Democracy that the competent organ for the selection would be a Standing Committee. Nevertheless, he stressed that they had to avoid raising concerns on the part of the Communist party and the Coalition regarding a possible cooperation of the two big parties in the competent

⁹⁹⁰ Nicos Mouzelis and George Pagoulatos (2004) describe the phenomenon of *diaplekomena symferonta* (intermeshed interests) as follows: “The phenomenon can be regarded as one of the perverse effects of the otherwise positive development of the liberalization of radio and television from the end of the 1980s. Liberalization ended the monopoly of state-controlled television, which had often become a mechanism of shameless and unrestrained government propaganda. However, the gains in pluralism and freedom of information were somehow offset by a Gresham-like quality race to the bottom, as private channels competed to attract the mass audiences that would allow sufficient profit. Moreover, the rise of television programmes into the centre of public attention transferred the epicenter of political importance from the Parliament to the talk-show studios, thus further eroding the legislature’s institutional role. More importantly, the high political visibility offered by privately owned radio and television has constituted the object of desire of competing politicians, increasing their dependence on media owners and raising stakes (and consequent economic costs) of publicity. As in many other Western democracies, the soaring financial costs of political campaigning, largely a result of the growing professionalization of electioneering, have raised party dependence on so-called “political money”. The unprecedented power enjoyed by media moguls had had a lot to do with this nexus of interdependence at the level not only of party or government but individual politicians as well. The inevitable control of state resources (including public contracts, favourable selective legislative arrangements and administrative measures) by governments in power and the penetration of media owners into a wide range of high-stake business activities perpetuates the umbilical cord between politics and business as a mutually accommodative relation of dubious transparency or legitimacy”.

parliamentary organ, thus leading to an exclusion of the wishes, proposals, personalities that would be introduced for discussion by the other political parties. Finally, he reminded the body that all the presidents of the National Council for Radio and Television had been unanimously elected by the Conference of Presidents in the past. He proposed the final formulation of the provision that read as follows: “... *The members of the authorities are selected by the Conference of Presidents with the intent to attain unanimity or by a qualified majority of the four-fifths. In case the attainment of the said majority failed, those individuals who gathered the majority of the three-fifths are appointed. However, the procedure for the selection of those members who did not gather the qualified majority of the four-fifths is repeated after six months. All relevant issues regarding the selection procedure are specified by the Standing Orders*”. Evangelos Venizelos stressed that the Speaker would submit the nominations to the organ, but it was obvious that the Speaker conferred and consulted with the members of the Conference of Presidents. Answering to Mrs Benaki regarding the issue of the composition of the said organ, he stressed that it could not be introduced in the Constitution. He assured the MPs that they had no intention to change the composition of the Conference of Presidents in the future.

The General Rapporteur of the major opposition, Ioannis Varvitsiotis, declared that his party did not agree with the change of the organ for the selection of the members of the authorities, and declared that they would not vote for it. First, he explained that the Conference of Presidents lacked the broad democratic legitimacy that enjoyed the Standing Committees since it was an organ provided by the Standing Orders. Second, he insisted that nobody could guarantee that the Speaker would not change the composition of the Conference of Presidents in the future through the Standing Orders. In his view, the new formulation of the clause was also linked to the effort of the party of the majority to eliminate reactions on the part of their own MPs who supported the competent Standing Committee as the appropriate selection organ. Finally, he stressed that the backbencher was bypassed. Regarding the issue of the majority of the four-fifths, the President of the Committee, Phoibos Ioannides, replied that even if the Speaker changed the composition, the proportion of the four-fifths would be invariable.

The General Rapporteur of the party of the minor opposition (KKE), Antonios Skyllakos, once more insisted that the proposed provision favoured the governing party regardless of the competent organ for the selection. He repeated his concern over the exclusion of party representatives from the composition of the National Council for Radio and Television since the role of the media was crucial for the electoral results. He stressed that the truth was that the two big political parties, PASOK and New Democracy, intended to cover their practices through the saga of personalities. He asked the MPs of the two big parties to tell him which personality did not possess a political identity. He addressed himself to the MPs of PASOK, and wondered whether their party had ever appointed as president or head of an independent authority a personality that they did not believe that he would support the predominant policy or, in any case, that he would be close to PASOK in most issues. He said that they should stop fooling each other since they clearly appointed either people from the political parties, or personalities with high standing whose views and resistance against pressures were well known to the politicians. He argued that they took into consideration all those issues, and then they proceeded to the final selection. He stressed that the pursuit of his party was simply to guarantee through the

constitutional provision the representation of the smaller parties. The General Rapporteur of the Majority, Evangelos Venizelos, replied that they did not appoint party representatives since their intention was to achieve unanimity. Antonios Skyllakos, replied that both the political parties and the social groups should be represented in the composition of the National Council for Radio and Television, and declared that his party would not vote for the provision.

The General Rapporteur of the Coalition (SYN), Fotis Kouvelis, expressed his satisfaction regarding the support of their proposal by the General Rapporteur of the Majority. He explained that the Conference of Presidents was the most appropriate organ for the pursuit of consensual solutions regarding the selection of the heads and members of the authorities. Nevertheless, he considered that the repeat of the selection procedure for those members who had not attained the qualified majority of four-fifths was unfortunate. He proposed that the Conference of Presidents should continue consultation until the attainment of the consensual solution of the four-fifths. He declared that if the General Rapporteur of the Majority insisted upon the issue of the majority of the three-fifths, they would not vote for that proposal.

Anna Psarouda-Benaki (New Democracy), argued that the independent authorities were a means to limit and control the power of the executive branch of government and wondered whether that power could be limited by extra-institutional factors. She explained that at the moment the Conference of Presidents had no constitutional status since it was a creation of the Standing Orders. Moreover, the organ was under the control of the majority, and thus lacked legitimacy for such an important role, that is, give power to the Member of Parliament in order to limit the strength of the executive branch. She also linked the content of the proposal to the attempt of the majority to muzzle its own MPs who supported the solution of the Standing Committees. In her opinion, that proposal could be interpreted as an effort of the majority to deny their own MPs the right to express their best judgement according to their conscience, a judgement which probably went contrary to the choices of the governmental majority. She insisted that the proposed organ had no legitimisation, and was not provided for in the Constitution. Finally, she stressed that the majority of the four-fifths poorly represented the composition of the whole Parliament.

Prokopis Pavlopoulos, (New Democracy), stressed that the proposed solution degraded the role of Parliament itself, and reminded the MPs that they had all agreed in the past that Parliament –not the Plenary for obvious reasons- should have a role in the selection mechanism of the boards of the authorities. He explained that the Plenary should be substituted for the Standing Committees for two reasons. First, the MPs would propose the nominees who would compose the final selection list. Second, the MPs could express their opinion upon the proposed individuals and discuss. He stressed that the Conference of Presidents was an artificial creation of the Standing Orders with the competence to settle all issues pertaining to the internal function of the Parliament, and thus such a proposal completely bypassed the Standing Committee. He admitted that the Speaker selected the president of the National Council for Radio and Television because the legislator considered that he enjoyed the increased prestige which allowed him to propose the President. He wondered whether they considered that all the members of the Conference of Presidents were personalities sharing the same prestige with the Speaker of Parliament. He insisted that the regulation was a mistake for two reasons. First, they attempted to exclude the

participation of parties, at least institutionally, with regard to the proposal of the names. In his view, it was obvious that the Speaker would propose them, and there would be an effort to make an agreement upon them. Second, the majority of the four-fifths of the Conference of Presidents were clearly occasional. He explained that the major opposition could be totally excluded since the regulation permitted the governmental majority to decide with the support of one or two votes on the part of the smaller parties of the minor opposition. He claimed that he was not afraid to say that such a practice was undemocratic since it represented a smaller part of the Greek people. Finally, he asked his colleagues from PASOK that they should not legislate in order to keep balances or support the personal views of certain MPs.

Charalambos Kastanides (PASOK) repeated his view that multimember bodies could guarantee credibility and transparency in the procedures. Moreover, he claimed that the role of the backbencher was appropriate for the selection of the members of the independent authorities. He clarified that he supported the version of the Standing Committee. Nevertheless, he recommended that in case the Conference of Presidents failed to select unanimously the members of the authorities, the issue should be relegated to the competent Standing Committee with the majority of three-fifths.

Nicolaos Katsaros (New Democracy), explained with numbers what Mr Venizelos's proposal meant. The majority of four-fifths corresponded to thirteen members, whereas the party of the Majority disposed of eleven members, that is, the six Presidents of the Standing Committees, the Speaker of Parliament, three Vice-Speakers and the Parliamentary Representative⁹⁹¹. If those eleven members were complemented by two more members coming from the third or the fourth party in Parliament, the majority of the four-fifths were attained. Moreover, the three-fifths of the members of the Conference of Presidents pertained to the governing party, and thus some members of the authorities could be selected simply by the governmental majority of the three-fifths. He claimed that the repeat of the procedure after six months might lead to the same result, if the governing party wished to avoid the attainment of the majority of the four-fifths. In his view, the organ did not reflect the electoral power of the parties in Parliament contrary to the Standing Committees, and thus the independent authorities would be dependent on the party of the majority.

Anastasios Nerantzis (New Democracy), stated that their common concern was to assign the competence of the selection to the organ that guaranteed representativeness on the one hand, and institutional recognition, on the other. Nevertheless, the Conference of Presidents was a temporary and technical organ with restricted competences, whereas the procedure of its functioning was not even described in the Standing Orders. He claimed that on the contrary the Standing Committees were representative organs whose competences and functioning are contained in detail in the Standing Orders, and the Constitution. Furthermore, he stressed that the MPs could express more freely their opinion in the Standing Committees. Finally, he criticised the view of the General Rapporteur of the Majority who claimed that they simply wanted to satisfy smaller parties. In his view, there was an attempt to erode the representative character of the organ on the one hand, and limit even more the role of

⁹⁹¹ According to article 13, par. 1 of the Standing Orders, as in force, regarding the composition of the Conference of Presidents, the party of the majority disposed of one more member by right, namely, the President of the permanent Committee on Institutions and Transparency.

the backbencher, who had become the compressed factor of the political system, on the other.

Ioannis Kefalogiannis, (New Democracy), repeated his view that the Parliament by a qualified majority upon proposal of the Speaker should take the responsibility of the selection. Apostolos Andreoulakos, (New Democracy), stressed that the composition of the Conference of Presidents represents the political parties par excellence since it is made up of the Speaker, the former Speakers of Parliament if they are active MPs, the Vice-Speakers of Parliament, the Presidents of the all the Standing Committees, the President of the Committee on Institutions and Transparency, and the Presidents of the Parliamentary groups or their representatives. He explained that it is a composition of the omnipotence of the political parties, and mainly the governing party which possessed the crushing majority. In his opinion, Parliament should decide upon the selection of the heads and members of the authorities but since it was overburdened, the competence should be assigned to the competent Standing Committee and not to the Conference of Presidents. He emphasized that the Standing Committees gave the MPS the chance to express themselves and through them the people. Moreover, he argued that the organ offered more guarantees of credibility and transparency.

Konstantinos Mitsotakis (New Democracy), expressed his discontent with the way they had voted. He noticed that if government had disagreements in its bosom, it should have resolved them in time without harassing the Committee on the Constitution. If the government had a problem with the Speaker of Parliament, they should have previously resolved it. He reminded that they had all accepted a proposal, and afterwards a new proposal was introduced. He stressed that it was not formally/typically inadmissible, but it was not nice and the government should have avoided it. He expressed his concern, as other MPs from his party, regarding the issues of the lack of the constitutional consolidation of the Conference of Presidents, the strict competence of the organ on issues pertaining to the internal functioning of Parliament, the degradation of the role of the MPs, and the temporary character of the organ. Finally, he asked the government not to insist on its proposal since it was politically, legally, and constitutionally unjustified.

The General Rapporteur of the Majority, Evangelos Venizelos, (PASOK) replied to the concerns expressed by the MPs. He admitted that the competent Standing Committee reflected the proportion of the electoral strength of the political parties, and wondered whether in the case of the independent authorities they should rather prefer selection organs of high prestige and broader acceptance in the sense of the recognisability of their members. He stressed that the main asset of the Conference of Presidents - an asset that counterbalanced the issue of proportionality- was that the Speaker of Parliament, the Vice-Speakers and the other members would not jeopardise their personal prestige. Konstantinos Mitsotakis (New Democracy) intervened and noticed that there were no better and no worse MPs; that was a big mistake. Evangelos Venizelos (PASOK) replied that it was another thing to be Speaker of Parliament, and another not to be. In his view, there were categories of MPs in that sense, and special privileges were provided for that reason. He finally stated that the Conference of Presidents allowed for substantial discussion, allowed for the quest of the individuals who would accept to become members of an

independent authority, but who would not accept to undergo the aggressiveness of the simple parliamentary procedure.

Konstantinos Mitsotakis (New Democracy) claimed that hearings before the competent Standing Committee could be avoided, whereas Evangelos Venizelos (PASOK) wondered whether such a thing was possible. On the other hand Konstantinos Mitsotakis (New Democracy) wondered why the Conference of Presidents could not ask for a hearing. Evangelos Venizelos (PASOK) repeated that the Conference of Presidents functioned in a different way compared to the Standing Committees, and allowed for substantial discussion. He claimed that distrust should end since the Standing Committees were consolidated in the Constitution, and their number was stable. Consequently, the composition of the Conference of Presidents could not be easily altered. He argued that the constitutional consolidation of the Conference of Presidents was guaranteed under article 101A of the Constitution since it would be invoked as the competent organ for the selection of the members of the independent authorities. He also reminded the MPs that the parliamentary Committee on Public Enterprises, Banks and Utilities which was competent for the assessment of the chairmen of the boards or CEOs of those public legal persons had failed many times to achieve consensus, whereas the Conference of Presidents had always reached unanimous decisions for the selection of the president of the National Council for Radio and Television. Anastasios Nerantzis (New Democracy) claimed that they could not put the blame on the parliamentary Committee; it was the persons' fault.

Evangelos Venizelos (PASOK) explained that the dynamics of party antagonism in the Standing Committees led to disputes and tensions, whereas the members of the Conference of Presidents could think and vote on a personal basis. Finally, he insisted that if they really intended to appoint powerful personalities to the independent authorities, they should protect the selection procedure and the prestige of those individuals since no individual with sensitivities and personality would accept to be rejected by a part of the Parliament. Konstantinos Mitsotakis (New Democracy) stated that there would be no hearings, and the political parties would not propose the nominees. Ioannis Varvitsiotis (New Democracy) insisted that the composition of the Conference of Presidents could be easily altered either through an increase in the number of the Vice-Speakers or through the participation of the President of another parliamentary committee. Moreover, he posed another practical issue: the majority of the four-fifths corresponded to 13.6 members according to the current composition of the organ. He asked whether it would be interpreted as thirteen or fourteen members, and expressed the certainty that the interpretation of the governing party would be thirteen members beyond any logic. He clearly stated that his party would not vote for the assignment of such a high role to the Conference of Presidents. Finally, he claimed again that the Speaker of Parliament had cruelly intervened in the work of the Committee, and informed the President of the Committee that newspapers made reference to the issue. The President of the Committee, Phoibos Ioannides, denied the allegations.

The General Rapporteur of the Coalition of the Left and Progress, Fotis Kouvelis, (SYN), argued that his party supported the Conference of the Presidents for the regulation of the issue, and assured the body that no one had exerted pressure on his party, as the ones applied on the General Rapporteur of the Majority according to Mr Varvitsiotis' allegations against the Speaker. He repeated that the Conference of

Presidents was the appropriate organ for the quest of consensual solutions. All political parties were expressed and represented in that organ. Finally, he stressed that the opposition was not divided into minor and major opposition; there was simply the opposition. Konstantinos Mitsotakis (New Democracy) interrupted him and argued that a small party possessed two votes, and thus contributed to the attainment of the majority of the four-fifths if the votes of the governing party were added. Fotis Kouvelis (SYN), wondered why fear was raised from the fact that the governmental majority would search for votes from the two small parties, whereas it was considered that there was no danger and fear from the cooperation of the two big parties that actually supported the bipolar, bipartisan system. Nicolaos Katsaros (New Democracy) replied that the fear came from the fact that they almost always agreed⁹⁹². The President of the Committee interrupted the discussion and announced the beginning of the voting process. According to the voting results, eleven MPs voted for the proposal of the General Rapporteur of the Majority, eight MPs voted against the proposal, and one MP “present”. Fotis Kouvelis, explained that he voted “present” because he did not approve of the alternative solution of the qualified majority of the three-fifths in case the qualified majority of the four-fifths was not attained.

8. Discussions on the draft law “National Council for Radio and Television and other authorities and organs of the sector for the provision of broadcasting services” (Law 2863/2000)

The Rapporteur of the Majority, Stephanos Manikas, (PASOK), stated that the draft law broadened the competences of the Council, and inevitably led to the need to change the selection mechanism of the members of its board. He acknowledged the worldwide originality of the current selection system, and the reservations which had been expressed in theory and jurisprudence over its constitutionality. Nevertheless, in his opinion, the highest risk came from the degradation of the authority to an interparty organ. He claimed that the new selection mechanism should be valid and credible, and search for the consensus of all wings in Parliament. He made reference to relevant authorities and selection mechanisms in the U.S.A., Canada, Sweden, and Finland, and concluded that the government’s proposal for the constitution of the NCRT marked an institutional step forward. He stressed that the organ of the Conference of Presidents was an organ of prestige, understanding, and consensus, and argued that the unanimous decisions upon the selection of the presidents of the NCRT in the past proved his point.

Anastasios Nerantzis (New Democracy), mentioned that the initial formulation of the clause presented by the Minister provided that the Standing Committee of Parliament would select the heads and members of the NCRT by a qualified majority of the three-fifths. Nevertheless, the Minister changed his mind and proposed an alternative version that assigned the selection to the Conference of Presidents by a qualified majority of the three-fifths which unfortunately coincided with the proportion of the strength of the governing party in the organ. Then he was informed with relief that the Minister finally proposed the qualified majority of the four-fifths. Nevertheless, in his view, two major issues looked for an answer: first, there was no explanation why the government did not wait for the completion of the revision of the Constitution, and second, why such an important draft law was introduced in a Session while Parliament

⁹⁹² The MP implies the party of PASOK and the Coalition of the Left and Progress (SYN).

was in recess. Finally, as member of the Committee on the revision of the Constitution, he informed the other MPs of the Plenum that the General Rapporteur of the Majority for the revision of the Constitution, had equally changed his initial proposal for the competent organ for the selection of the heads and members of the independent authorities, and finally proposed the Conference of Presidents instead of the competent Standing Committee. He clarified that the Conference of Presidents was an extra institutional organ whose composition could be simply altered by the Standing Orders of the Parliament.

Liana Kanelli⁹⁹³, (KKE), intensely expressed her discontent with the exclusion of party representatives from the composition of the Council. Moreover, she totally disagreed with the clause which considered that the assumption of office or the position in a political party was incompatible with one's capacity as member of the Council. She urged the MPs not to accept that since a declaration of no political involvement and purity as a guarantee of democracy was an insult against democracy itself.

Panagiotis Lafazanis⁹⁹⁴, (SYN), stressed that the clause on the constitution of the Council was a positive step that should be properly exploited in order to achieve the consensus of all the wings of Parliament, thus enabling the authority to play its crucial role against the gigantic domestic interests in the sector of the mass media, and probably against foreign ones in the near future.

The Minister of the Press and Mass Media, Dimitrios Reppas⁹⁹⁵ (PASOK), stressed that the new competences assigned to the Council demanded a new profile from its members. He refused the claims that the provision of the draft law preceded the final regulation by the Constitution since the two procedures, that is, the draft law on the appointment of the members of the NCRT, and discussions on the revision of the Constitution, ran parallel. He emphasized that in the other countries of the European Union the members of the relevant authorities were appointed by the executive power. He explained that the involvement of Parliament in the procedure put symbolically emphasis on the independent character of the organ. In his view, it was obvious that the selection of the Council through organs of Parliament prevented the revival of the party system for the appointment of its members, a procedure that could easily transform them into party representatives, thus distorting the profile the authority. He stressed that the majority of the Committee on the revision of the Constitution and the Standing Committee that elaborated the draft law under discussion voted for the Conference of Presidents as the competent organ for the selection of the members of the NCRT, an organ that had successfully selected the President and Vice-President of the NCRT upon proposal of the Speaker of Parliament. He emphasized that all the parties equally played a decisive role in the Conference of Presidents, whereas the Standing Committees favoured the cooperation of the governing party and the party of the major opposition, thus leading the smaller parties to marginalisation. Finally, he explained that they eliminated from the provision the possibility to appoint for six

⁹⁹³ She studied law and worked as a journalist. She publishes a monthly magazine. She was elected MP in 2000, 2004, 2007 and 2009 with the Communist Party of Greece.

⁹⁹⁴ He studied Mathematics and was elected MP in the elections of 2000 (Coalition of the Left and the Progress), 2007 and 2009 (Coalition of the Radical Left).

⁹⁹⁵ He studied dentistry. He was elected MP in the elections of 1981, 1989, 1993, 1996, 2000, 2004, 2007 and 2009. He served as Minister in various ministries under the PASOK governments.

months those members who would gather the qualified majority of three-fifths since they did not intend to exploit the arithmetic majority they possessed in the organ.

Prokopis Pavlopoulos (New Democracy) claimed that even if they passed the clause, it could not be applied before the revision of the Constitution on the selection mechanism of the heads and members of the boards of the independent authorities, and the amendment of the Standing Orders of Parliament. He informed the assembly of the discussions that took place in the Committee on the revision of the Constitution regarding the selection mechanism of the independent authorities. He stressed that despite the fact that they had agreed that the organ for the selection would be the competent Standing Committee by a qualified majority of the three-fifths the General Rapporteur of the Majority changed his mind, and proposed instead the Conference of Presidents invoking the support of the representative of the Coalition in the Committee. He emphasized that many MPs from PASOK voted against that proposal, whereas the MP Ioannis Magriotis (PASOK) interrupted him and denied that there were any leaks on the part of PASOK. Prokopis Pavlopoulos insisted that he was right, and mentioned that he would not refer the MPs' names since it was an internal affair of PASOK, and thus he did not want to expose colleagues. He claimed that the organ of the Conference of Presidents was inappropriate for three reasons. First, it had a fluctuating composition, and thus the majority party could even attain the qualified majority of the four-fifths on its own. Second, it lacked broad democratic legitimacy since it was composed of a small number of party representatives. He admitted that it would be difficult for the Plenum of Parliament to decide upon such an issue. In his opinion, the competent Standing Committees were made up of more MPs who could express their views upon the nominees in a mature way, unfettered by party expediency. Third, they assigned new competences to an organ which was strictly responsible for the internal functioning of Parliament before the amendment of the Standing Orders of Parliament. He noted that the government intended to create a precedent, and thus affect the Revisionary Parliament during discussions on the clause regarding the selection mechanism of the independent authorities. He considered that such a practice was politically inadmissible and institutionally unconceivable.

Spiridon Striftaris, parliamentary representative of the Communist Party of Greece (KKE), claimed that the National Council for Radio and Television could not be an independent organ since the Speaker of Parliament was the only one who had the right to propose the nominees, and the composition of the Conference of Presidents was fluctuating. Moreover, he wondered how they could possibly ascertain whether a nominee proposed by the Speaker was not a party member. He suggested that they should suspend the discussion of the clause since the issue would be regulated on the whole by the revised Constitution. He denied the claims that the participation of party representatives in the composition of the NCRT led to its failure since five out of nine members were appointed by the majority party. He insisted that the government's main target was to muzzle anyone who had an opposite view. Thus its intention was made apparent with the new clause which forbade the members of the NCRT to communicate any confidential information that came to their knowledge to persons or authorities –with the exception of courts and special parliamentary committees- in the discharge of their duties. In his opinion, the presidents of the NCRT had resigned because they felt that they did not have the necessary independence in order to exercise properly their functions. Finally, he argued that there were no independent authorities in practice since they would either serve the system, or they would not

exist at all. In his view, it would be inconceivable for a system to give power to authorities which would not be under its control. The proposed selection mechanism was one way to achieve that since there was no election procedure in practice; they rather appointed the ones they wanted.

During the second session of the discussions on the draft law “*National Council for Radio and Television and other authorities and organs of the sector for the provision of broadcasting services*” which was held on November 3, 2000, the Parliamentary Representative of PASOK, Alexandros Akrivakis, admitted that the NCRT had become an interparty organ governed by disputes and controversy, and its members were more interested in the promotion of the views of their parties rather than the promotion of the serious issues of the Council. He stressed that the Conference of Presidents always took unanimous decisions regarding the selection of the president of the NCRT upon proposal of the Speaker of Parliament. He claimed that the solution of the relevant Standing Committee supported by the party of New Democracy presented drawbacks. First, the organ of the Standing Committee was multimember. Second, there was publicity which in turn would influence the MPs’ behaviour that could lead to disputes and acrimonies, thus making the composition of views even more difficult to achieve. Regarding the issue of the suspension of the discussion of the clause since it would be definitely regulated by the revised Constitution, he claimed that the majority which would vote for the provision on the selection mechanism of the NCRT coincided with the majority which would vote during the discussions on the Revision of the Constitution. Moreover, the Committee on the revision of the Constitution and the Standing Committee that elaborated the draft law on NCRT both supported the organ of the Conference of Presidents, and thus nothing would change that result in the future. Finally, he mentioned that Mr Pavlopoulos was inconsistent with his own views since he had supported the Conference of Presidents as the competent organ for the selection of the members of the NCRT in a report of the Standing Committee on Institutions and Transparency written by the Rapporteurs of PASOK (Alexandros Papadopoulos), New Democracy (Prokopis Pavlopoulos), and the Coalition (Fotis Kouvelis)⁹⁹⁶.

Vasilis Kedikoglou⁹⁹⁷ (PASOK), wondered how the Speaker of Parliament would proceed to the nomination of candidates for the Council without prior public announcement. He stated that he could not accept that the Speaker of Parliament was the wisest of all Greeks leaving in Greece and abroad who had the ability to propose a nine-member Council.

⁹⁹⁶ According to that report “*The members of the National Council for Radio and Television should be selected by the Conference of Presidents, after a hearing by the Committee on Institutions and Transparency that will submit a comprehensive report*”. The Communist Party of Greece (KKE) submitted a separate report.

⁹⁹⁷ He studied Civil Engineering. He was a founding member of PASOK. He served as Minister of Commerce (8.2.1984-21.9.1984) and Minister of Public Works (18.11.1988-17.3.1989) under the PASOK governments. In 22.2.1992 the President of PASOK, Andreas Papandreou, expelled him from the party. He challenged the validity of his expulsion from the Parliamentary Group of the party, and the president of PASOK annulled it later on. He was reelected MP in 1993, 1996 and 2000. In 21.9.2000 PASOK announced his expulsion from the party, whereas in a letter dated 24.9.2000 he stated that he was leaving the Parliamentary Group of PASOK. Source: Evia Portal, available at: <http://www.eviaportal.gr/content.asp?ID=5980>, date of access: 25.08.2010.

Prokopis Pavlopoulos (New Democracy), explained to the Parliamentary Representative of PASOK, Alexandros Akrivakis, that he was not inconsistent with his views since at the time they discussed the issue of a new mechanism for the selection of the members of the NCRT, the Committee on Institutions and Transparency judged that the Conference of Presidents, after a hearing by the Committee on Institutions and Transparency, was more appropriate than the system in force. He claimed that discussions on the revision of the Constitution gave him the chance to consider the issue on a broader basis since the new constitutional clause provided for the formulation of an overall selection mechanism for the independent authorities which would be constitutionally consolidated. Moreover, he referred once again to the inconsistency of Mr Venizelos' stance during discussions of the Committee on the revision of the Constitution regarding the selection mechanism of the heads and members of the independent authorities. He informed the Assembly that Mr Venizelos interrupted the voting procedure - an act which was irregular and the President of the Committee, Mr Ioannides, should have prevented-, and asked to speak. He claimed that many MPs, among them many MPs from PASOK, expressed their disagreement. Mr Venizelos, proposed the Conference of Presidents as the appropriate organ for the selection of the heads and members of the independent authorities instead of the competent Standing Committee. He mentioned that the Conference of Presidents prevailed over the competent Standing Committee with a marginal vote, whereas many MPs from PASOK disagreed. Finally, he announced that his party would vote against the draft law.

Fotis Kouvelis (SYN), argued that the government could claim world-wide originality in the practice it followed since it showed contempt for the constitutional legislator who would regulate the issue in a few months time. He stressed that there was no such precedent in the political history of the world. He claimed that the view that the haste of the government to pass the law was suspicious and simultaneously guilty was absolutely justified since no concrete and convincing answers were provided. He announced that his party would vote against the draft law, and asked the government to show braveness and withdraw it.

The Minister of the Press and Mass Media, Dimitrios Reppas, (PASOK) stressed that the current selection mechanism of the heads and members of the NCRT constituted a world-wide originality since everywhere the members of the relevant authorities were appointed by the executive power, the Prime Minister, the Cabinet, or the Minister. He claimed that the government assigned to an organ of the Parliament the power to decide upon the issue in order to enhance the democratic legitimacy of the NCRT and safeguard its role. Nevertheless, he noticed that the government was blamed for that. Finally, he considered that the reservations or suspicions expressed by the party of New Democracy regarding the constitutional consolidation of the Conference of Presidents were unjustified since the Standing Orders of the Parliament had never been amended without prior broad consensus.

During the third session of the discussions on the draft law "*National Council for Radio and Television and other authorities and organs of the sector for/of the provision of broadcasting services*" which was held on November 7, 2000, the President of New Democracy, Konstantinos Karamanlis, and the President of the Coalition of the Left and Progress, Nicolaos Konstantopoulos, took also part in the debate and made their arguments. Konstantinos Karamanlis expressed his intense

disagreement with the proposal that the Conference of Presidents should be competent for the selection of the heads and members of the boards of the National Council for Radio and Television. Moreover, he accused the government of practices that did not befit Parliament since the unanimous decision taken by the Committee on the revision of the Constitution that supported the version of the competent Standing Committee was annulled. He stated that he rejected the organ of the Conference of Presidents for the following reasons: first, the competent Minister had supported the version of the competent Standing Committee in his initial proposal; second, the Committee on the revision of the Constitution had already unanimously voted for the competent Standing Committee before the introduction of the new proposal; third, the idea of the organ of the Conference of Presidents was imposed by external interventions against the initial will of the MPs; fourth, the Conference of Presidents was an organ whose composition fluctuated, and thus it could be controlled by the government; fifth, the Conference of Presidents possessed less democratic legitimacy in relation to the competent Standing Committee; and sixth, the mission of the Conference of Presidents was strictly limited to the issues pertaining to the internal functioning of Parliament. He emphasized that the amendment of the Standing Orders of the Parliament was a prerequisite for the application of the law. In his view, such a regulation raised two issues. First, a Minister demanded and gave the order to proceed to the amendment of the Standing Orders, thus intervening in the work of the legislative body. He wondered how someone could possibly justify the fact that the executive branch could request and anticipate changes in issues pertaining to the internal functioning of Parliament. Second, the amendment of the Standing Orders – and consequently the implementation of the law – would take place after the revision of the Constitution. In his view, it made no sense to vote hastily for a law which would remain inactive and which would probably prove to be unconstitutional in three months time.

The Minister of the Press and Mass Media, Dimitrios Reppas, (PASOK), argued that the proposal of New Democracy to assign the selection mechanism to the competent Standing Committee by a qualified majority of the three-fifths equally presupposed the amendment of the Standing Orders of Parliament. He explained that the decisions of the Standing Committee in principle are taken by the absolute majority vote of the members present and thus recommended that the opposition should not formulate arguments which simply created impressions. He acknowledged the fact that a consensus was needed for the constitution of the independent authorities. Therefore, he clarified that one's capacity as member of the NCRT could not coincide with the same person's capacity as a party member. Moreover, in his view, those nominated by the political parties should not be at arm's length from them, but they should rather be prestigious personalities that could function unswayed by those who proposed them for the position in the board of the NCRT.

Prokopis Pavlopoulos (New Democracy), made clear that they had already requested the suspension of the discussion of the clause. He explained that they supported the option of the Standing Committee by the qualified majority of the three-fifths, an issue that should be legally consolidated after the constitutional revision and the amendment of the Standing Orders of Parliament.

The President of the Coalition of the Left and Progress, Nicolaos Konstantopoulos, explained that his party supported the Conference of the Presidents for two reasons.

First, the composition of the organ was indeed representative, and thus the bipartisan system could not level everything. Second, in the Conference of Presidents every small party would take responsibility for the way it would use its power. He addressed himself to Prokopis Pavlopoulos, and stated that the Coalition wanted to have the power of veto and disagreement in case they had to tackle the submission of unorthodox proposals, whereas the party of New Democracy sought to attain the agreement of the three-fifths in order to put aside the small parties. He reminded the assembly that his party had already warned that it was a mistake on the part of the government to introduce the draft law so hastily.

Konstantinos Mitsotakis, (New Democracy), replied to the President of the Coalition, Nicolaos Konstantopoulos, that his conclusion was not democratic since he claimed that his party, which represented 4% of the votes, should have the power of veto, whereas the party of the Major Opposition, which represented 43% of the votes, should not. Furthermore, he argued that the revision of the Constitution constituted a procedure of paramount importance for democracy, and thus the draft law should not deal with issues that were currently discussed by the Committee on the revision of the Constitution. Finally, he mentioned that Mr Konstantopoulos should support the competent Standing Committee which represented in a reduced form the Plenum of Parliament – since it was technically impossible for the Plenum of Parliament to decide upon the issue-, whereas the organ of the Conference of Presidents did not express Parliament.

The MPs of the Communist Party of Greece, (KKE), Liana Kanelli and Spyridon Striftaris, disagreed with the fact that only the Speaker of Parliament would have the right to propose the nominees, thus violating the independence of the institution. They recommended that a list of candidates should be submitted by the political parties and the social groups. Prokopis Pavlopoulos (New Democracy) claimed that the involvement of the chair of Parliament in the procedure was chargeable to it. He stressed that the resignation of two presidents of the NCRT had surely put burden on the institution of the Speaker of Parliament since he was directly involved in the selection of the said individuals.

9. Discussions of the VII Revisionary Parliament on article 101A of the Constitution

Antonios Skyllakos (KKE), stated that if they had to choose between the Conference of Presidents and the competent Standing Committee, they would support the latter since an amendment of the composition of the Conference of Presidents by the Standing Orders of the Parliament could lead to the attainment of the qualified majority of the four-fifths by the government majority itself. Nevertheless, he explained that the major issue for his party was the avoidance of the reproduction of the bipartisan system through the selection mechanism. In his view, all the political parties should be equally represented in the governing boards. Moreover, social groups should take part in the composition of the authorities.

Prokopis Pavlopoulos (New Democracy) reminded the assembly that the ex-Speaker of the Parliament, Nicolaos Alevras⁹⁹⁸, had supported the view that the organ of the

⁹⁹⁸ Ioannis Alevras (1912-1995) was a Greek trade unionist and politician. He was a founding member of PASOK. He was elected MP in 1963, 1974, 1977, 1981, 1985, 1989, 1993, and Speaker of the Hellenic Parliament in 1981, 1985, 1989. On March 10, 1985 he was appointed provisional President

Conference of Presidents could have no other competence than the facilitation of the work of the functioning of the Parliament. Therefore, the assignment of such procedures was out of question.

Konstantinos Mitsotakis (New Democracy), referred once more to the issue of the lack of legitimisation of the Conference of Presidents, both popular and constitutional, which actually hindered the organ from taking such decisions. He proposed that if the government considered that the competent Standing Committee had too many members, they could create another Committee with fewer members which would nevertheless guarantee the representativeness of the parties in Parliament according to their electoral strength.

Stephanos Manos⁹⁹⁹, (New Democracy), proposed that they should introduce a rolling system of appointments to the boards of the authorities as the one he had recommended to the former Minister of Finance Mr Papantoniou, and was successfully implemented in the case of the Council of the Bank of Greece. He claimed that those arguments that allegedly supported consensus either led to the selection of people who were not necessarily the best option or aged people who did not have the strength to exercise their duties in an independent manner. In his view, the government should appoint them in a rolling system which would prevent the simultaneous change of all the members of the authority. Moreover, democratic legitimacy meant that the government appointed, and took the responsibility for the selection.

Fotis Kouvelis (SYN), stressed that their main concern as MPs should be the formulation of regulations which would enable the authorities to achieve real independence. In his view, the parliamentary review of the authorities guaranteed their substantial independence, thus excluding their subordination to the executive power. He explained that the role of Parliament should be decisive in the selection of the heads and members of the independent authorities. Therefore, his party supported the flexible organ of the Conference of Presidents which would seek the attainment of the qualified majority of four-fifths. He argued that the qualified majority would elevate the reflexes of the democratic behaviour of the political parties in order to achieve consensus which in turn would lead to real merit selections that would endure beyond the time of the appointment. Finally, he concluded that the continuous consensus of the political forces was a precondition for the function of an independent authority.

of the Republic following the resignation of Konstantinos Karamanlis. He also exercised his duties as Speaker of the Parliament. On February 22, 1990 he was proposed by PASOK as President of the Republic but gathered 125 votes against 153 by Konstantinos Karamanlis. Source, Wikipedia, available at:

http://el.wikipedia.org/wiki/%CE%99%CF%89%CE%AC%CE%BD%CE%BD%CE%B7%CF%82_%CE%91%CE%BB%CE%B5%CF%85%CF%81%CE%AC%CF%82, date of access: 30.08.2010

⁹⁹⁹ He is a Greek politician and industrialist. He studied mechanical engineering (ETH Zurich), and received his MBA from Harvard University. He was elected MP in 1977, 1981, 1993, 1996, 2000, and 2004. He served as Deputy Minister and Minister under the governments of New Democracy. In April 1999 he founded the Liberal Party and cooperated with the party of New Democracy in the elections of 2000. In the national elections of 2004 he was included as an independent candidate in the third position of the voting paper of the State with PASOK. On March 17, 2009 he was co-founder of a new political party, the “Action”. Source Wikipedia, available at: http://el.wikipedia.org/wiki/%CE%A3%CF%84%CE%AD%CF%86%CE%B1%CE%BD%CE%BF%CF%82_%CE%9C%CE%AC%CE%BD%CE%BF%CF%82, date of access: 30.08.2010.

Evangelos Venizelos, Minister of Culture, (PASOK) in his closing speech attempted to highlight the superiority of the organ of the Conference of Presidents towards that of the competent Standing Committee. He acknowledged that the latter reflected the proportion of the strength of parties in Parliament. He claimed that the proposal for the Conference of Presidents provoked a distrust which was unjustified in a modern democracy. In his opinion, if there was no basis of trust and understanding, constitutional regulations seemed useless. He insisted that there should be a basic political and institutional trust. He explained that the Conference of Presidents was based on a parliamentary practice, a pan European practice. It was based on the practice of the European Parliament, and it had become a perennial practice of the Hellenic Parliament since the time of Ioannis Alevras. He stressed that the organ had proved to be successful in its competence to propose the president and vice-president of the NCRT. He stated that he was pleased since he was the competent Minister who had proposed that competence in 1993, whereas it was the first relevant competence assigned to the Speaker of Parliament and the Conference of Presidents. He emphasized that the major advantage of the organ was that it was not based upon the proportion of the strength of the political parties. Therefore, in his view, the selection did not result from the agreement among the political parties, but rather resulted from wider acceptance and consensus. Regarding the proposal of the competent Standing Committee and the qualified majority of three-fifths, he acknowledged that the agreement between the government and the major opposition would give the solution. On the other hand, he claimed that the Conference of Presidents allowed for more flexibility. He explained that the agreement of the opposition was necessary, but there should be a certain margin for personal assessments and behaviours. In other words, he believed that the members of the Conference of Presidents should not consider themselves as party representatives. They should be conscious of their own personal institutional responsibility as members of the Conference of Presidents, as Presidents of a Standing Committee, as members of the chair of Parliament. He argued that they should enjoy a greater margin of flexibility, a flexibility which all the MPs claimed during the procedure of the revision of the Constitution. He wondered why the members of the organ should not also acquire such flexibility in the selection of the members of the authorities since they wanted the authorities to come into conflict with interests and non political forms of power. In his opinion, it was that flexibility and that institutional approach of the procedure which actually made the Conference of Presidents the prevailing option. Finally, he proposed that the decision should be taken, in any case, by the qualified majority of the four-fifths, and thus recommended that the second part of the clause regarding the alternative solution of the repeat of the procedure after six months should be eliminated.

APPENDIX 3

The Institutional Design of the Appointments Clauses in the Five Greek Constitutional Independent Authorities

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>NATIONAL COUNCIL FOR RADIO AND TELEVISION (NCRTV) Law 1866/1989, article 2, par. 1 and 2 -Phase I “It shall be made up of an eleven-member Board composed of individuals of high prestige in the field of literature, arts, science, technology, and politics (par. 1). The members of the National Council and their alternates shall be officially appointed by the Minister of the Presidency as follows: a. the party or coalition of parties that comes first in seats shall nominate three members, among them the President, b. the party or coalition of parties that comes second in seats shall nominate two members, and the party or coalition of parties that comes third in seats, one member, c. Five members shall be nominated by: the Union of Journalists of the daily newspapers of Athens, one member; the Union of Journalists of the daily newspapers of Macedonia-Thrace, one member; the Central Union of the Greek Municipalities and Communities, one member; the Technical Chamber of Greece, one member; and the Hellenic Entertainment Federation, one member (par. 2)”.</p>	<p>Direct nomination of the heads and members by the political parties and relevant societal groups.</p> <p><i>Official Appointment by the Minister of the Presidency of the Government</i></p> <p>Nomination by private organisations*. Before the official appointment, the Minister (the executive) has the discretion to scrutinise the proposal according to the criteria set forth in article 2, par. 4 of the law <i>* We use the term as applied by the Greek jurisprudence (Council of State) which considers the political parties and trade unions, as part of the private sphere.</i></p>	<p>At the time of the regulation such a selection mechanism was not provided for in the Constitution, irrespective of the conflicting theoretical views as to whether the authorities are part of the executive or they constitute a fourth branch of government.</p> <p>The appointments clause violated the principle of the separation of powers, as prescribed in article 26 par. 2 of the Constitution providing that “<i>The executive powers shall be exercised by the President of the Republic and the Government</i>”.</p> <p>Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated.</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>NATIONAL COUNCIL FOR RADIO AND TELEVISION (NCRTV) Law 2173/1993, article 1-Phase II The National Council for Radio and Television (NCRTV) shall be made up of a nine-member Board. The President and his alternate, the regular and alternate members of the NCRTV shall be officially appointed by an act of the Minister of the Presidency of the Government as follows: a. The Speaker of Parliament, upon proposal of the Conference of Presidents, shall nominate the President and his alternate, b. the party or coalition of parties that comes first in seats shall nominate four regular members with their alternates, b. the party or coalition of parties that comes second in seats shall nominate two regular members with their alternates, c. the party or coalition of parties that comes third in seats shall nominate one regular member with his alternate, d. the party or coalition of parties that comes fourth in seats shall nominate one regular member with his alternate (par. 1). If there is no party or coalition of parties that comes fourth in seats, the party or coalition of parties that comes second in seats shall nominate three regular members with their alternates. If there is no party or coalition of parties that comes third in seats, the party or coalition of parties that comes second in seats shall nominate four regular members with their alternates (par. 2). . The individuals nominated by the Speaker of Parliament and the parties shall be: a. Journalists – members of a recognised journalistic union, such as the Union of Journalists of the daily newspapers of Athens and the Union of Journalists of the daily newspapers of Macedonia-Thrace, b. Scientists with high profile in the field of mass media, c. Personalities with particular presence and contribution to literature, the arts</p>	<p><i>Phase 1-</i> <i>Procedure for the selection of the President and his alternate</i> Nomination of the President and his alternate by the Speaker of Parliament upon proposal of the Conference of Presidents.</p> <p><i>Official Appointment by the Minister of the Presidency of the Government</i></p> <p>Nomination by parliamentary organs. The Minister (the executive) has the discretion to scrutinise the proposal according to the criteria set forth in article 2, par. 4 of the law</p> <p><i>Phase 2-</i> <i>Procedure for the selection of the members of the Council</i></p>	<p>Council of State, Section E, Decision No 944, Year 1999. The Court judged that the provision was unconstitutional since the authority was part of the executive branch irrespective of the existence of administrative hierarchy. The selection and appointment of the members of the administrative organs were exercised by the state according to the principle of the separation of functions, and thus political organisations, as the political parties, or any other private organisation, could not take part in such nomination procedures. Due to its relevance, the case was relegated to the Plenary of the Council of State.</p> <p>Council of State in Plenary Session, Decision No 656, Year 2000. The court exercising an incidental review</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>NATIONAL COUNCIL FOR RADIO AND TELEVISION (NCRTV) Law 2173/1993, article 1-Phase II or information, and, especially, entertainment, d. Personalities of high prestige with particular participation in public life, and especially in educational institutions, the local government or the trade union movement (par. 4). Parties or coalition of parties that shall nominate more than one regular members or their alternates, shall select these individuals from among more than one of the categories mentioned in the previous paragraph (par. 5)</p>	<p>The members are directly nominated by the political parties.</p> <p><i>Official Appointment by the Minister of the Presidency of the Government</i></p> <p>Nomination by private organisations*. Before the official appointment, the Minister (the executive) has the discretion to scrutinise the proposal according to the criteria set forth in article 2, par. 4 of the law</p> <p><i>* We use the term as applied by the Greek jurisprudence (Council of State) which considers the political parties as part of the private sphere.</i></p>	<p>judged that the provision was constitutional since the legislator had the discretion to assign the selection of the members of the NCRTV to political parties on the basis of appropriate formal and substantial qualifications necessary for the exercise of state control over the mass media.</p> <p>At the time of the regulation such a selection mechanism was not provided for in the Constitution, and thus article 26 par. 2 of the Constitution was violated. Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated.</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>SUPREME COUNCIL FOR THE SELECTION OF PERSONNEL Law 2190/1994, art. 4, par. 7- Selection mechanism applied during the first application of the law For the first application of this law, as president, vice-president and members of the Council shall be appointed individuals who fulfil the preconditions of par. 2 according to the following procedure: First, within ten (10) days after publication of this law the Minister of the Presidency of the Government shall submit to the Conference of Presidents of Parliament a uniform proposal for the posts of the president and vice-president of the Council. A qualified majority of four fifths of the members of the Conference is required for the approval of the uniform proposal. If such majority is not attained, the Minister of the Presidency of the Government shall submit within eight (8) days after the announcement of the relevant decision of the Conference a new uniform proposal that may be approved by simple majority. After the approval of the proposal, the appointment of the nominees shall be made official by presidential decree, issued upon proposal of the Minister of the Presidency of the Government.</p>	<p><i>Phase 1-</i> <i>Procedure for the selection of the President and Vice-President</i></p> <p>Selection by the Conference of Presidents by a qualified majority of four fifths upon a uniform proposal of the competent Minister (the Minister of the Presidency of the Government). In case the qualified majority of the four-fifths is not attained, a new uniform proposal is submitted which may be approved by the Conference of Presidents by simple majority.</p> <p><i>Official Appointment by presidential decree issued upon the competent Minister's proposal</i></p>	<p>At the time of the regulation such a selection mechanism was not provided for in the Constitution, irrespective of the conflicting theoretical views as to whether the authorities are part of the executive or they constitute a fourth branch of government.</p> <p>The appointments clause violates the principle of the separation of powers, as prescribed in article 26 par. 2 of the Constitution providing that “<i>The executive powers shall be exercised by the President of the Republic and the Government</i>”.</p> <p>Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated. The Conference of Presidents was not constitutionally consolidated on the one hand, and the Standing</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
SUPREME COUNCIL FOR THE SELECTION OF PERSONNEL Law 2190/1994, art. 4, par. 7- Selection mechanism applied during the first application of the law Second, within ten (10) days after their appointment, the President and Vice-President of the Council shall submit to the Minister of the Presidency of the Government a joint proposal comprising fifteen (15) individuals, at least, as candidates. The Minister shall select nine (9) members whose appointment shall be made official by a presidential decree, issued upon the Minister's proposal (par. 7).	<p><i>Nomination and appointment by the executive with legislative veto</i></p> <p>Checks and balances system</p> <p><i>Phase 2-</i> <i>Procedure for the selection of the members of the Council</i> Joint proposal of nominees (at least fifteen individuals) submitted by the President and Vice-President of the Council and final selection of the nine members by the competent Minister (the Minister of the Presidency of the Government).</p> <p><i>Official Appointment by presidential decree issued upon the competent Minister's proposal</i></p> <p><i>Nomination by the heads of the authority and final selection by the executive</i></p>	<p>Orders of the Parliament did not assign any confirmation competences regarding the selection of high ranking public functionaries to the organ.</p> <p>The selection mechanism provided for the members of the Council was unconstitutional for the reasons mentioned above.</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>SUPREME COUNCIL FOR THE SELECTION OF PERSONNEL Law 2190/1994, art. 4, par. 7- The selection mechanism after the first application of the law Councillors* shall be selected by the Plenary of the Council after a public announcement for the submission of candidacies. The announcement shall be promptly issued before the retirement of a counsellor or counsellors due to age limit or expiration of the mandate. The counsellor or counsellors that are about to retire participate in the plenary session for the selection of a new counsellor or counsellors. If a post becomes vacant due to resignation or death, the selection shall take place among the rest of the members in quorum (as provided for in the decision of article 6 par. 2.). The selected person's appointment shall be made official by a presidential decree issued upon the proposal of the Minister of the Presidency of the Government. (par. 3)</p>	<p><i>Selection of the members of the Council</i> Open procedure through public announcement for the submission of candidacies. The Councillors are selected by the Plenary of the Council. A ministerial decision published in the Government Gazette provides for the procedure of the submission of candidacies and selection.</p> <p><i>Official Appointment by presidential decree issued upon the competent Minister's proposal</i></p> <p><i>Cooptation system. The Minister (the executive) has the discretion to scrutinise the selected persons according to the procedure set forth in the ministerial decision of article 4 par. 5 of the law</i></p>	<p>Cooptation is a selection model according to which members of an organ or committee decide on the appointment of new members/colleagues. The procedure is implemented in the election and/or promotion of judges, university professors, members of the academies. The system of cooptation for the selection of the members of ASEP violated article 26 par. 2 of the Constitution.</p> <p>Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated.</p>

AUTHORITY	Codification of the provision	Constitutionality of the provision
The Appointments Clause (original text)	Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	
SUPREME COUNCIL FOR THE SELECTION OF PERSONNEL		
Law 2190/1994, art. 4, par. 7-		
The selection mechanism after the first application of the law		
<p>The President and the Vice-President shall be elected among the members of the Council in plenary session, as long as all vacant posts of the counsellors have been filled. The election of the (a new) president or vice-president takes place before the retirement of the (previous) president or vice-president due to age limit or expiration of the mandate. The president or vice-president that is about to retire participates in the plenary session for the election of a new president or vice-president. The appointment to the post of president or vice-president shall be made official by a presidential decree issued upon the proposal of the Minister of the Presidency of the Government.</p>	<p><i>Selection of the President and Vice-President</i> Selections take place among the members of the Council in Plenary session, as long as all vacant posts of the counsellors have been filled.</p> <p><i>Official Appointment by presidential decree issued upon the competent Minister's proposal</i></p> <p><i>Cooptation system. The Minister (the executive) has the discretion to scrutinise the selected persons according to the procedure set forth in the ministerial decision of article 4 par. 5 of the law</i></p>	

* Councillors are called the members of the Council.

AUTHORITY	Codification of the provision	Constitutionality of the provision
The Appointments Clause (original text)	Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	
<p>THE HELLENIC DATA PROTECTION AUTHORITY Law 2472/1997, article 16, par. 2 The Authority shall be composed of a judge of a rank corresponding at least to that of a Conseiller d'État as President and six members as follows: a) A University, full or associate, professor specialized in law; b) A University, full or associate, professor specialized in information technology; c) A University, full or associate, professor; d) Three persons of high standing and experience in the field of the protection of personal data. The judge-President and the professors-members may be on active service or not¹⁰⁰⁰. 2. The President of the Authority shall be employed on a full and exclusive time basis and shall be appointed by a Presidential Decree issued upon proposal of the Cabinet following a recommendation of the Minister of Justice. If a judge on active service is selected for the position of the President, then a decision of the competent Supreme Judicial Council is also required. The same procedure is to be followed for the selection and appointment of the President's alternate.</p>	<p><i>Selection of the President and his alternate</i> They are selected by the Cabinet upon proposal of the Minister of Justice.</p> <p><i>Official Appointment by presidential decree</i></p> <p>The Executive</p>	<p>The selection mechanism provided for the President and his alternate was constitutional.</p>

¹⁰⁰⁰ “It is allowed for the members of the Data Protection Authority to exercise duties as members of a University faculty on a full or part-time basis”. *This section was added pursuant to article 14 of Law 3068/2002 (Official Gazette 274 A/ 2002).*

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>THE HELLENIC DATA PROTECTION AUTHORITY Law 2472/1997, article 16, par. 2</p> <p>The members of the Authority shall be appointed by means of the following procedure: the Minister of Justice shall submit to the Speaker of Parliament a proposal for the appointment of the six ordinary members of the Authority and an equal number of alternates. The proposal shall include a double number of candidates. The Speaker will then forward the proposal to the Committee on Institutions and Transparency, which renders an opinion. The members of the Authority and their alternates shall be selected by the Conference of Presidents. The persons selected shall be officially appointed by presidential decree issued upon proposal of the Minister of Justice, and published in the Official Gazette.</p>	<p><i>Selection of the members of the Council and their alternates</i> Submission of a proposal for the appointment of the six ordinary members of the Authority and an equal number of alternates by the Minister of Justice to the Speaker of Parliament. The proposal includes a double number of candidates. The Speaker communicates the proposal to the Committee on Institutions and Transparency, which renders an opinion*. The members of the Authority and their alternates are selected by the Conference of Presidents. <i>Official Appointment by presidential decree upon proposal of the Minister of Justice</i></p> <p><i>Nomination and appointment by the executive without legislative veto</i> Pseudo-Checks and balances system</p>	<p>At the time of the regulation such a selection mechanism was not provided for in the Constitution, and thus article 26 par. 2 of the Constitution was violated. Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated.</p> <p>Council of State in Plenary Session, Decision No 2279, Year 2001. The court exercising an incidental review judged that the provision regarding the selection of the members of the authority was not contrary to any constitutional provision or principle. The majority of the Court linked the special parliamentary review for the selection of the members of the authority (the President exempted)</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
THE HELLENIC DATA PROTECTION AUTHORITY Law 2472/1997, article 16, par. 2	<p>* The Committee formulates an opinion according to the procedure provided for in article 49A of the Standing Orders.</p> <p>According to article 49A, par. 3 4 and 5 of the Standing Orders of the Parliament, as amended after the voting of the law 2477/1997, the competent Minister shall submit a CV of the nominee for the post containing his/her formal and substantial qualifications. The Committee holds a public hearing, and submits to the competent Minister a written report formulating its opinion on the candidate. The report may contain the opinion of the minority, should there is one.</p>	<p>with the principle of popular sovereignty. The minority of the Court supported that the organs for the nomination and selection of the president and the members of the authority did not ensure impartiality since the selection procedure was under the direct or indirect influence of the governmental majority thus violating articles 2* and 9** of the Constitution and the provisions of Directive 95/46/EC (especially art. 28)*** of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. In their opinion, the power for the constitution of the authority should be assigned to Parliament which possesses the broadest possible acceptance in a democratic society.</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
THE HELLENIC DATA PROTECTION AUTHORITY Law 2472/1997, article 16, par. 2		<p data-bbox="1594 517 2045 624">[* Article 2, par. 1: “Respect and protection of the value of the human being constitute the primary obligations of the State”.</p> <p data-bbox="1594 628 2045 815">**Article 9, par. 1. “Every person’s home is a sanctuary. The private and family life of the individual is inviolable. No home search shall be made, except when and as specified by law and always in the presence of representatives of the judicial power.</p> <p data-bbox="1594 820 2045 927">***Article 28, par. 1 of the Directive 95/46/EC: “. . .These authorities shall act with complete independence in exercising the functions entrusted to them”.</p> <p data-bbox="1594 979 2045 1305">The amendment of the provisions of the Standing Orders of Parliament* assigning decisional competences or/and the formulation of opinion to the Conference of Presidents and the Committee on Institutions and Transparency regarding nominees for certain public posts, as prescribed in legislation or the Standing Orders, took place after the enactment of the law 2472/1997. In other words, the competent organs of Parliament (the Conference of Presidents and the permanent Committee on Institutions and</p>

AUTHORITY	Codification of the provision	Constitutionality of the provision
The Appointments Clause (original text)	Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	
THE HELLENIC DATA PROTECTION AUTHORITY Law 2472/1997, article 16, par. 2		<p>Transparency) involved in the selection mechanism of the members of the authority, did not have such competences prescribed in the Standing Orders by the time of the enactment of the law 2472/1997**. The amendment of the Standing Orders was irregular.</p> <p>*Article 1, par. 1, e and par. 4 of the amended provisions of the Standing Orders of the Parliament (Official Gazette, vol. A, 258/17.12.1997)</p> <p>** The Law was published in the Government Gazette on April 18, 1997</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>THE GREEK OMBUDSMAN Law 2477/1997, article 2, par. 2 Ombudsman and Deputy Ombudsmen are selected individuals of recognized standing, with superior academic qualifications and enjoying broad social acceptance. 2. The Ombudsman is selected by the Cabinet upon previous opinion of the Committee on Institutions and Transparency according to the procedure provided for in the Standing Orders, and is officially appointed by presidential decree.</p>	<p><i>The Ombudsman</i> The Ombudsman is selected by the Cabinet upon previous opinion of the Committee on Institutions and Transparency according to the procedure provided for in the Standing Orders *.</p> <p><i>Official Appointment by presidential decree</i></p> <p><i>Nomination and appointment by the executive* with legislative confirmation</i> Pseudo-checks and balances system</p> <p>* According to article 49A, par. 3 4 and 5 of the Standing Orders of the Parliament, as amended after the voting of the law 2477/1997, the competent Minister shall submit a CV of the nominee for the post</p>	<p>At the time of the regulation such a selection mechanism was not provided for by the Constitution, and thus article 26 par. 2 of the Constitution was violated. Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 of the Code of Civil servants were violated. The amendment of the provisions of the Standing Orders of the Parliament* assigning the formulation of opinion to the Committee on Institutions and Transparency regarding nominees for certain posts public, as prescribed in legislation or the Standing Orders, took place after the enactment of the law 2477/1997. In other words, the competent Committee of Parliament (the permanent Committee on Institutions and</p>

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>THE GREEK OMBUDSMAN Law 2477/1997, article 2, par. 2</p> <p>The Deputy Ombudsmen, among whom the Ombudsman's alternate, are (officially) appointed by decision of the Minister of Interior, Public Administration and Decentralization upon recommendation of the Ombudsman</p>	<p>containing his/her formal and substantial qualifications. The Committee holds a public hearing, and submits to the competent Minister a written report formulating its opinion on the candidate. The report may contain the opinion of the minority, should there is one.</p> <p><i>The Deputy Ombudsmen</i> The Deputy Ombudsmen, among whom the Ombudsman's alternate, are (officially) appointed by decision of the Minister of Interior, Public Administration and Decentralization upon recommendation of the Ombudsman</p> <p><i>Official Appointment by Ministerial Decision</i></p> <p><i>Nomination-selection by the head of the authority-Ombudsman, official appointment by the competent Minister</i></p>	<p>Transparency) involved in the selection mechanism of the Ombudsman, did not have such competences prescribed in the Standing Orders by the time of the enactment of the law 2477/1997**</p> <p>*Article 1, par. 1, e of the amended provisions of the Standing Orders of the Parliament (Government Gazette, vol. A, 258/17.12.1997)</p> <p>** The Law was published in the Government Gazette on April 10, 1997. The amendment of the Standing Orders was irregular.</p>

**The Appointments Clause of the members of the constitutional independent authorities
proposed by the Committee on the Revision of the Constitution
(Article 101A, par. 2 of the Constitution under revision)**

Their selection shall made by decision of the Conference of Presidents seeking unanimity or, in any case, by the increased majority of four fifths of its members. If the said unanimity is not attained, it is considered that are selected and appointed those who gathered a qualified majority of three-fifths of the members present. However, the selection procedure for those members who did not gather a qualified majority is repeated after six months. Matters relating to the selection procedure are specified by the Standing Orders of the Parliament.

Selection by the Conference of Presidents seeking unanimity or, in any case, by the increased majority of four fifths of its members. Matters relating to the selection procedure are specified by the Standing Orders of the Parliament.

The legislative (the Conference of Presidents). The Minister is legally bound to proceed to the appointment.

Directorial system

AUTHORITY The Appointments Clause (original text)	Codification of the provision Branch of government/ Competent organ/s participating in the selection mechanism (nomination, selection, and official appointment)	Constitutionality of the provision
<p>THE NATIONAL COUNCIL FOR RADIO AND TELEVISION Law 2863/2000, article 2, par. 2-Phase III 1. The National Council for Radio and Television shall be made up of an eleven-member Board. One member is appointed as President, and one member as Vice-President. 2. The President, the Vice-President and the other members of the National Council for Radio and Television shall be selected by the Conference of Presidents of the Hellenic Parliament, upon proposal of its Speaker. The decision shall be taken by a qualified majority of, at least, the four-fifths. The Speaker of Parliament shall communicate the selection decision to the Minister of the Press and Mass Media who shall issue the decision of the appointment of the members, which shall be published in the Official Gazette. The selection procedure is initiated by the Minister of the Press and Mass Media after a relevant query addressed by the Speaker of the Hellenic Parliament.</p>	<p>The President, the Vice-President and the other members of the National Council for Radio and Television are selected by the Conference of Presidents upon proposal of the Speaker of Parliament. The decision is taken by a qualified majority of, at least, the four-fifths.</p> <p><i>Official Appointment by the competent Minister</i></p> <p>The legislative (the Conference of Presidents). The Minister is legally bound to proceed to the appointment.</p>	<p>At the time of the regulation such a selection mechanism was not provided for by the Constitution, and thus article 26 par. 2 of the Constitution was violated. Moreover, the Appointments Clause of the Constitution (article 46) combined with article 52 par. 1 and of the Code of Civil servants were violated.</p>
	Directorial system	

Convergence of the Appointments Clause of the Members of Constitutional Independent Authorities:

Article 101A, par. 2 of the revised Constitution of 2001

Their selection shall be made by decision of the Conference of the Presidents seeking unanimity or, in any case, by the increased majority of four fifths of its members. Matters relating to the selection procedure are specified by the Standing Orders of the Parliament.

Selection by the Conference of Presidents seeking unanimity or, in any case, by the increased majority of four fifths of its members. Matters relating to the selection procedure are specified by the Standing Orders of the Parliament.

The legislative (the Conference of Presidents). The Minister is legally bound to proceed to the appointment.

Directorial system

Article 26 of the Constitution was revised through the phenomenon of the intersection of functions. The constitutionality of the revision of article 26 is based on functionalist argumentation.

The Conference of Presidents and its composition, irrespective of the qualified majority provided for by article 101A, par. 2, verse c, are not consolidated in the Constitution (Chrysogonos, 2000).

Despite the amendment of article 14 of the Standing Orders of the Parliament (Resolution of Parliament in Plenum on December 6, 2001, published in the Government Gazette, vol. A, 284/18.12.2001) regarding the competences of the Conference of Presidents as provided for by the revised Constitution, the selection procedure was not further specified. Consequently, the provision not only lacks transparency, but also is contrary to the constitutional demand. The provision simply provides that “*the Conference of Presidents shall select upon proposal of the Speaker of the Parliament*”.

APPENDIX 4

Appointments Clauses of the heads and members of the boards of the **national regulatory authorities in the broadcasting field** in Council of Europe member states –Branch of government/Organ/s participating in the selection mechanism

Sources: European Platform of Regulatory Authorities, Website: www.epra.org, A site created in 2000 with the support of the DG Education and Culture of the European Commission, Websites of the national regulatory authorities in the broadcasting field, date of access: 06.09.2010

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ALBANIA National Council of Radio and Television NCRT	<p>Legal Framework: Law nr. 8410, dt.30.09.1998, "On private and public radio and television in the Republic of Albania", amended and law 9472. dated 28 may 2007 "On Digital Broadcasting in the Republic of Albania".</p> <p>Composition Number of members: 7 (seven) Term of office: 5 (FIVE) years Reelection possible: _</p> <p>Proposal of members: The parliamentary Committee on Education and Media proposes to the Assembly 2 alternative candidates for each position after a selection among at least 4 nominees proposed as follows:</p> <ul style="list-style-type: none"> a) 1 member elected from candidates proposed by electronic media associations and groups; b) 1 member elected from candidates proposed by print media associations; c) 1 member elected from candidates proposed by academics and associations of electric engineering; ç) 1 member elected from candidates proposed by professors of Law, lawyers' associations and the Chamber of Lawyers; d) 1 member elected from candidates proposed by parliamentary parties <p>Selection of members: The members of the National Council of Radio-Television are elected by the Assembly for a 5 year term, with the right to be re-elected only once.</p>	Selection by the legislature (Parliament)

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
AZERBAIJAN National TV and Radio Council of the Republic of Azerbaijan	Legal Framework: Law of TV and Radio Broadcasting”, “Regulation about National TV and Radio Council”, ”Law of advertisement“, “Law of mass (information) media“, 2003 Number of members: 9 Term of office: 6 years Proposal of members: - Appointment of members: By the President	The Executive (the President)
Belgium (French Community) Conseil supérieur de l'audiovisuel - CSA	Legal Framework : Decree on broadcasting services Proposal of members: 7 members proposed by the Parliament - 3 members proposed by the government Appointment of the members: 7 members are appointed by the Parliament and 3 members are appointed by the government	The legislature (Parliament) and the executive (the government)
BULGARIA Council for Electronic Media (CEM)	Legal Framework: Radio and Television Act Number of members: 9 Term of office: 6 years Re-election possible: _ Once Proposal of members: - Appointment of members: The Council for Electronic Media consists of nine members, of whom five shall be elected by the National Assembly and four are appointed by the President of the Republic.	The legislature (Parliament) and the executive (the President of the Republic)
CYPRUS Cyprus Radio-Television Authority	Legal Framework: Radio and Television Stations Law 7(I)/98 and Radio and Television Stations Regulations of 2000 Number of members: 7, Term of office: 6 years Proposal and appointment of members: The Cabinet proposes and appoints the Members of the Board of the Authority.	The Executive (the Cabinet)

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SWITZERLAND Independent Complaints Authority - UBI/AIEP	<p>Legal Framework: Art. 93 of the Federal Constitution (SR 101) ; articles 58 ss of the Federal Law on radio and television of June 21, 1991 (LRTV ; SR 784.40)</p> <p>Proposal of members: The Federal Department of the environment, transport, energy and communication proposes the members to the Federal Council.</p> <p>Appointment of members: The Federal Council appoints the members and the President (art. 58 al. 1 LRTV).</p>	Appointment by the Executive (Federal Council) upon proposal of the competent Minister
SWITZERLAND Communications Commission	<p>The authority has two missions: i) the regulation of the broadcasting sector, and ii) the creation of the necessary conditions for the liberalisation of the telecommunications market</p> <p>Legal Framework: Telecommunications Act of 30 April 1997, SR 784.10</p> <p>Appointment of the members: The Federal Council elects a Federal Communications Commission consisting of five to seven members and appoints the Chairman and Vice-Chairman. The members must be independent specialists.</p>	The Executive (Federal Council)
CZECH REPUBLIC Council for Radio and Television Broadcasting	<p>Legal Framework: Act No. 483/2001 of 7 May 1991 Broadcasting Act 2001, Advertising Act 1995</p> <p>Number of members: 15 (fifteen) Proposal of members: Chamber of Deputies (propositions of political groups of deputies)</p> <p>Proposal and selection of the members: The Chamber of Deputies of the Parliament of the Czech Republic elects the members of the Council. Nomination proposals for membership in the Council submitted to the Chamber of Deputies by organisations and associations representing cultural, regional, trade union, employer, religious, educational, scientific, environmental, and nationality interests. The proposed nominations are submitted in the manner defined by the resolution of the Chamber of Deputies within 15 days after the public announcement of the invitation by the Chairperson of the Chamber of Deputies to submit the proposals. Council members shall be elected from among the candidates nominated in accordance with Article 4(2) above. The Council member's term of office is 6 years, one-third of the members being elected every two years. Appointment of members: Prime Minister (there is legal obligation to appoint the proposed persons)</p>	The Legislature (the Chamber of Deputies)

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
DENMARK The Radio And Television Board	<p>Legal Framework: Consolidated Radio and Television Broadcasting Act No. 338 of April 11, 2007</p> <p>Number of members: 8</p> <p>Proposal of members: The Minister of Culture proposes 7 of the members. 1 member is proposed by the listeners' and viewers' organisation.</p> <p>Appointment of members: The Minister of Culture</p> <p>The minister appoints the 8 members, who together represent expertise in legal, financial/administrative, business and media/cultural affairs</p>	The Executive (the Minister), whereas 1 member is proposed by the listeners' and viewers' organisation
ESTONIA Estonian Public Broadcasting Council	<p>Legal Framework: Broadcasting Law, as amended in June 2008</p> <p>Number of members: 10</p> <p>Proposal and selection of members: Upon proposal of the Riigikogu (the Parliament of Estonia) Cultural Affairs Committee, the Riigikogu appoints five members of the Public Broadcasting Council from among the members of the Riigikogu on the basis of the principle of political balance and four members of the Public Broadcasting Council from among recognised specialists in the related fields of public broadcasting, for a term of five years</p>	Proposal by the competent parliamentary committee and selection by the legislature (Riigikogu)

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
GERMANY		
i) Landesmedienanstalten (LMA)-14 State Media Authorities monitoring commercial broadcasting	i) There is no regulatory authority for private broadcasting at federal level. There are 14 State Media Authorities monitoring commercial radio and television at state level. State laws provide for the composition of the boards and the selection mechanism.	Pluralistically composed councils appointed by societal groups* and state parliaments * representatives from political parties are included since political parties are considered as “socially relevant groups”
ii) Broadcasting Councils monitoring public radio and television	ii) Public broadcasters are monitored by internal pluralistic bodies composed of representatives from the federal legislature, political parties, trade unions, religious communities and business and cultural organisations	Pluralistically composed councils appointed by societal groups and the federal legislature
SPAIN Telecommunications Market Commission - CMT	Legal Framework: Law 32/2003, November 3rd, General of Telecommunications Number of members: 9 Term of office: 6 years Proposal of members: The members of the Council are proposed jointly by the Ministers of Economy and Industry, Trade and Commerce. Appointment of members: The members of the Council are appointed by a Decree of the Spanish Government. The nomination of the proposed members should be submitted to the competent parliamentary Commission for information only.	The Executive (competent Ministers)

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SPAIN		
AUTHORITIES AT REGIONAL LEVEL		
Audiovisual Council of Catalonia – CAC	<p>Legal Framework: Law 2/2000 of May 4</p> <p>Proposal and appointment: Nine of the members are elected by the parliament at the proposal of at least three parliamentary groups and by a majority of two thirds. The tenth is the President of the Council, proposed and appointed by the Government after consideration of the majority opinion of the nine members elected by the parliament.</p>	The Legislature (regional Parliament)
Audiovisual Council of Navarra	<p>Legal framework: Law 18/2001</p> <p>Number of members: 7 Term of office: 6 years</p> <p>Proposal, selection and appointment of members: The members chosen by the Parliament are proposed by the political parties with representation (5 members). The ones selected by the Government are directly named (2 members)</p>	The Legislature (regional Parliament) and the Executive (regional government)
Audiovisual Council of Andalusia	<p>Legal framework: Law 1/2004</p> <p>Number of members: 11 Term of office: 5 years</p> <p>Proposal, selection and appointment of members: The members are selected among individuals with a recognised professional prestige in the field of audiovisual communication, science, education, culture or society. The members are elected by the Parliament of Andalusia by a qualified majority of three-fifths of its members and appointed by the Council of the Government. The President is elected among the members of the Audiovisual Council of Andalusia and appointed by the Council of the Government.</p>	The Legislature (regional Parliament)
FINLAND		
Finnish Communications Regulatory Authority (FICORA)	<p>Legal framework: A joint authority i.e. several acts applied; among others Act on Television and Radio Operations (744/1998), Communications Market Act (393/2003). The authority does not have a board and operates as a common service of the public sector. The Government grants the licenses (both analogue and digital) in a terrestrial mass communications network. FICORA grants short term licenses and technical licences (frequencies).</p>	Selection procedure as a common service of the public sector

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
UNITED KINGDOM (OFCOM)	<p>Legal framework: 2003 Communications Act</p> <p>Number of members: 9</p> <p>Selection and appointment: 6 members are selected and appointed jointly by the secretaries of state for Trade and Industry and for Culture Media and Sport. The appointed six members then select the other 3 members from the staff of Ofcom including the Chief Executive.</p>	The Executive and cooptation system
CROATIA Agency for Electronic Media of the Republic of Croatia	<p>Legal framework: Article 68 of the electronic media act, 2009</p> <p>Number of members: Seven members one of which is the president of the Council.</p> <p>Proposal, selection and appointment: The president and other members of the Council shall be appointed by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia. In the procedure of nomination of the Council members, the Government of the Republic of Croatia announces a public invitation for nominating candidates for Council members. The Deputy President of the Council, upon proposal of the president of the Council, is selected by the Council by majority vote.</p>	Nomination by the government through public announcement with legislature (the Parliament) confirmation
HUNGARY The National Media and Communications Authority	<p>Legal Framework: Act LXXXII, 2010</p> <p>Law LXXXII established the National Media and Communications Authority, an autonomous administrative body under the supervision of the Parliament. The new authority was a merger of the telecom and broadcasting regulatory bodies: the National Communications Authority (NHH) and the National Radio and Television Commission (ORTT). The Media Council assumed the role and powers of the Board of the former National Radio and Television Commission.</p> <p>Number of members: 5</p> <p>Selection and appointment: The president and its 4 members are elected by Parliament by a qualified majority of two-thirds for a renewable term of nine years. The President of the authority heads the meetings of the autonomous Media Council. The Prime Minister appoints the President.</p>	The legislature (the Parliament) by a qualified majority of two-thirds (the Parliament)

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ISRAEL The Council for Cable TV and Satellite Broadcasting	<p>Legal framework: The Communication Act 1982</p> <p>Number of members: 13 Term of office: 4 years</p> <p>Proposal of members: 6 government representatives, employed by the state of Israel, of which: 1 member recommended by the minister of justice. 1 member recommended by the minister of finance. 1 member recommended by the minister of education and culture. 3 members recommended by the minister of communication.</p> <p>7 public representatives, of which: 2 members recommended by the union of local authorities. 2 members - representing the consumers. 2 members - representing educational and cultural unions. 1 member - representing the artists and creators in Israel.</p> <p>Selection of members: The minister of communication recommends the members to the government and the government may approve the recommendations.</p>	<p>Pluralistically composed Council</p> <p>Proposal by the Executive and societal groups</p> <p>Selection: the government upon proposal of the minister of communication</p>
ITALY Autorità per le Garanzie nelle Comunicazioni Italian Communications Authority	<p>Legal framework: Law n° 249 of 31 July 1997</p> <p>Number of members: The Authority has the following structure: the Council and two autonomous commissions: i) the Infrastructures and networks Commission, and ii) the Services and products Commission.</p> <p>Each Commission is a collegiate body, composed of the President, and four Commissioners. The President is common for all collegiate bodies.</p> <p>Selection and appointment of members: The Senate of the Republic and the Chamber of Deputies elect four Commissioners for each commission. The members are appointed by a decree of the President of the Republic.</p> <p>Selection and appointment of the President: The president of the Authority is appointed by a decree of the President of the Republic upon proposal of the President of the Council of Ministers in agreement with the Ministry of Communications. The nomination of the president of the Authority shall be submitted to the competent parliamentary committees for approval.</p>	<p><u>The members:</u> The legislature (the Senate and the Chamber of Deputies)</p> <p><u>The President:</u> Nomination by the Executive with legislature (competent parliamentary committees) confirmation</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
LUXEMBOURG Conseil National des Programmes	<p>Legal framework: Law on the electronic media, 1991</p> <p>Number of members: 25 Term of office: 5 years</p> <p>Proposition and selection of members : They are proposed and selected by the following representative organisations of social and cultural life of the country (the officially recognised religions, political parties represented in parliament, the most representative trade unions, employers' associations, active organisations in culture, family issues, ecology, charity, youth, foreigners)</p> <p>Representatives of the officially recognised religions; Parliamentary group of the CSV; Parliamentary group of the LSAP; Parliamentary group of the DP; Parliamentary group of the Déi Greng; OGB-L (Union); LCGB (Union); CGFP (Union); Chamber of Commerce; National Women's Council; Chamber of Trade; Chamber of Agriculture; Actioun Lëtzebuergesch Eis Sprouch (Luxembourg Author's Committee); ULC (Luxembourg Consumer Association); C.O.S.L. (National Olympic Committee); AFP (Action Familiale et Populaire) (Organisation for family rights);</p>	<p>Foyer de la Femme (Organisation for Women's rights) ; Conférence Générale de la Jeunesse (General Youth Conference) ; Amiperas (Committee for the elderly); Comité de Liaison et d'Action des Etrangers (CLAE) (Liaison Committee for Foreigners) ; Coalition nationale pour les droits de l'enfant (National Coalition for children's rights) ; Croix-Rouge / Caritas (Red Cross) ; Mouvement Ecologique / Natura (Ecomovement) The Ecological Movement / Natura; UGDA</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
MONTENEGRO Broadcasting Agency of Montenegro	<p>Legal framework: Media Law 01-2808/4, 2002</p> <p>Number of members: 5 Selection: The Parliament of the Republic of Montenegro shall ratify the appointment of the Agency Council members. The authorized nominators for members of the Agency Council are: Government of the Republic of Montenegro; University of Montenegro; Broadcasters associations in Montenegro, excluding associations of public broadcasting services; Non-governmental organizations and citizens' associations involved in the protection of human rights and freedoms; Non-governmental organizations in the media sphere.</p> <p>A nominee for the Agency Council Member shall not necessarily be from the ranks of the authorized nominator.</p> <p>The law is under amendment. According to the Draft Electronic Media Law the organs of the Broadcasting Agency of Montenegro are:</p> <p>i) the Broadcasting Council; ii) the Board of Administration;</p> <p>iii) the Director General.</p> <p>The Broadcasting Council represents the interests of the general public with regard to programming. The Broadcasting Council is composed of twelve members, coming as far as possible from different groups comprising the civil society. The Council members are elected by (the Lower Chamber of) Parliament, by a three-quarters majority, following a public hearing with potential nominees. Each member is appointed for a fixed period of six years. However, as regards the initial composition of the Council, four members shall be nominated for a period of two years, four members for a period of four years and four members for a period of six years. The Board of Administration supervises the business affairs of the agency, both internal and external, with the exception of matters relating to programming. It is composed of seven members. They shall be experts in matters of administration and finance and may not in the exercise of their function represent their own interests or those of third parties.</p>	<p>Pluralistically composed Council</p> <p>The Executive and societal group (the Legislature simply ratifies the selection)</p> <p>Proposed appointments clause:</p> <p>The legislature (Lower Chamber of Parliament) by a qualified majority of ¾ after a public hearing of the nominees</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
MOLDOVA Council for Coordination on the audiovisual activity	Legal framework: Broadcasting Law no. 603-XIII of 03.10.1995 Number of members: 9 Selection: The Council members are selected by the President (3), the Parliament (3) and the Government (3).	The Executive (the President and the Government), and the Legislature (the Parliament)
NETHERLANDS Commissariaat voor de Media (The Dutch Media Authority)	Legal Framework: Dutch Media Act , 1988, chapter 2 Number of members: 3; Term of office: 3 Proposal, selection, appointment: By Royal Decree upon recommendation of the State Secretary of Media Affairs	The Executive (the competent Minister)
NORWAY Norwegian Media Authority	Legal Framework: Act no. 127 of 4 December 1992 relating to Broadcasting section 2-1, paragraph 4 Number of members: 3 The Norwegian Media Authority is the administrative agency for broadcasting and local broadcasting and reports to the Ministry of Culture and Church Affairs.	The Executive
The Broadcasting Council	The Broadcasting Council discusses and expresses its opinion on the general programme policy of the Norwegian Broadcasting Corporation. Proposal, selection, appointment The Broadcasting Council comprises 14 members with their alternates. The Storting (Parliament) appoints eight members, one of whom shall be the Director of the Sámi Programme Council. Six members, including the Chair and the Deputy-Chair, are appointed by the King.	The Legislature (the Storting) and the Executive (the King)
The Regional Broadcast Councils	The Regional Broadcast Councils express their opinion on the general programme policy of the Regional Offices and on programme matters which the Director General or the Director of the Regional Office concerned submits to the Council, or which the Council itself sees reason to take up. Proposal, selection, appointment: The Regional Programme Councils comprise five members with their alternates who are appointed for a term of four years by the County Authority. The King may issue rules concerning the appointment and composition of Regional Programme Councils in cases where a Regional Office serves more than one county.	The Executive

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
PORTUGAL Regulatory Entity for the Media	<p>Legal framework: Law no. 53/2006, of 8 November, established ERC and approved its Statutes</p> <p>Number of members: 5; Term of office: Five years</p> <p>Proposal of members: At least 10 members of the Assembly of the Republic, and 40 at the most, propose the lists of candidates.</p> <p>Selection of members: The Assembly of the Republic appoints the members of the Regulatory Board. The Regulatory Board then elects the Chairman and Vice Chairman from among its members.</p>	The Legislature (the Assembly of the Republic)
ROMANIA National Audiovisual Council	<p>Legal framework: Audiovisual Law no.504/2002, as amended</p> <p>Number of members: 11</p> <p>Proposal and selection of the members: Article 11 of Law no.504/2002. Law no.504/2002 (1) The Council is made up of 11 members and it is assigned by the Parliament, following the recommendations made as follows: a) The Senate: 3 members; b) The Chamber of Deputies: 3 members; c) The President of Romania: 2 members; d) The Government: 3 members . (2) The proposals assign the candidate for the position of a titleholder, as well as the candidate for the position of a deputy and they shall be forwarded to the standing offices of the two Chambers within 15 days since the date of commencing the assignment procedure. (3) The standing offices of the two Chambers forward the proposals to the specialized standing commissions with a view to the candidates' hearing in joint session. (4)After the hearing, the specialized standing commissions draw up a joint notification which they present to the joint session of the Chamber of Deputies and of the Senate.(5) Candidatship shall be approved by the vote of the majority of deputies and senators, provided that the two Chambers are in quorum. According to Art.14 the Council is headed by a president and is elected from among the members of the Council, upon proposal of the Council's members. The vice-president is elected by the secret vote of the Council, in the presence of at least 9 of its members.</p>	<p>Nomination by the Senate, the Chamber of Deputies, the President of the Republic, the Government with legislature</p> <p>Nomination by the Senate, the Chamber of Deputies, the President of the Republic, the Government with joint legislature (the Chamber of Deputies and the Senate) confirmation</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SWEDEN The Swedish Broadcasting Authority	<p>Legal framework: The Radio and Television Act, which came into force on August 1, 2010, transposes the EU Audiovisual Media Services Directive (AVMS).</p> <p>The Swedish Broadcasting Authority is the result of a merger between the Radio and TV Authority and the Swedish Broadcasting Commission.</p> <p>Number of members: 7 and 4 alternates Term of office: 3 years</p> <p>Proposal of members: Informal procedure within the Government</p> <p>Appointment of members: Members are appointed by the Government</p>	The Executive (the Government)
SLOVAKIA Council for Broadcasting and Retransmission	<p>Legal framework: The Act on Broadcasting and Retransmission, 2000</p> <p>Number of members: 9</p> <p>Proposal and selection of members:</p> <p>The members are elected and recalled by the National Council. The National Council Committee may be presented with proposals for candidates of Council membership by members of the Parliament, professional institutions and civil associations operating in the areas of audio-visual, mass information means, culture, science, education, sport, registered religious and church societies, and civil associations of citizens with health handicaps through the Coordinating Committee for Issues of Health Handicapped Citizens of the Slovak Republic. The Council elects a Chairman and Vice-chairman of the Council from its members.</p> <p>(4) If a Chairman is not elected, the Vice-chairman performs his activities to the full extent.</p>	<p>Pluralistically composed Council</p> <p>Nomination by authorised nominees and selection by the Legislature (National Council)</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
TURKEY Radio and Television Supreme Council	<p>Legal framework: Law No 3984 on the Establishment of Radio and Television Broadcasting Enterprises of 20 April 1994. Article 6, (As amended by the Law No. 5373/1 on July 5, 2005.</p> <p>Number of members: 9</p> <p>Proposal and selection of members: Supreme Council is composed of nine members elected by the Turkish Grand National Assembly from among persons who have at least four years of higher education, ten years of professional working experience in public and private organizations, sufficient professional knowledge and experience and qualification for being a state employee and shall be over the age of 30. For their election, political parties shall nominate candidates two-fold more in number in accordance with the rate of their number of seats in the Grand National Assembly and the Supreme Council members shall be elected from among these candidates on the basis of the number of members of each political party in the General Session of the Grand National Assembly. But, no decision shall be taken or no negotiation shall be implemented about whom will be voted to in the group meetings of the political parties. Election of the Supreme Council members shall be executed in ten days following the publicly announcement of the candidates. For the every candidates nominated by the political parties, composite ballot notes shall be prepared in lists. Voting shall be realized by putting a mark on the special places across the names of candidates on the notes. In accordance with the already designated quota of the political parties as defined in the Paragraph 2, the votes which will be cast more than the members to be elected to the Supreme Council by the political parties shall be assumed invalid. The candidates from among the others who collected the most votes for the vacant member seats shall be elected, provided that the number of decision for quorum is ensured. Result of the election shall be published in the Official Gazette.</p>	<p>Nomination by the political parties and selection by the Legislature (the Turkish Grand National Assembly)</p>

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of the national regulatory authorities in the broadcasting field in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SLOVENIA The Telecommunications, Broadcasting and Post Agency of the Republic of Slovenia	<p>Legal framework: Mass Media Act, 2001</p> <p>Number of members: 7</p> <p>Proposal and selection of members: Article 100 of the Mass Media Act: (2) The Broadcasting Council consists of seven members, who are selected by the National Assembly on the basis of a public invitation. Candidates shall be proposed by: Slovenian universities (candidates from the areas of law, telecommunications and informatics); the Chamber of Culture of Slovenia (candidates from the area of audio-visual culture); the Chamber of Commerce and Industry of Slovenia (candidates from the area of commerce); the Journalists' Society of Slovenia (candidates from the area of journalism and communication)</p> <p>(3) Irrespective of the provisions of the previous paragraph the National Assembly may also choose from among candidates who submit their own candidacy if they are experts in the areas specified in the previous paragraph.</p> <p>(4) The Broadcasting Council shall have a president, who shall be appointed by the members from among themselves.</p>	<p>Pluralistically composed Council</p> <p>Nomination by authorised nominees and submission of independent candidacies - selection by the legislature (the Parliament)</p>

Appendix 5

Appointment Clauses of **Ombudsmen and deputy Ombudsmen** in Council of Europe member states –Branch of the government/Organ/s participating in the selection mechanism

Sources: Ombudsman Information Network, available at: http://www.anticorruption.bg/ombudsman/index_eng.htm, date of access: 07.09.2010, According to the website, “the Ombudsman Information Network was developed under the project *Promoting European Standards in Human Rights: Establishment of Ombudsman Institution in Bulgaria* implemented by the Centre for the Study of Democracy with the support of the European Commission”.

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ALBANIA The People’s Advocate	<p>Legal framework: Statute No. 8454, dated 4.2.1999 on People's Advocate, Articles 60 through 63, 81 and 83, item 1 of the Constitution</p> <p>Proposal and selection: Article 4: The People’s Advocate is elected by three-fifths of all the members of the Assembly. Available at : http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4853&lang=en&t_style=tex&l_style=default, date of access, 07.09.2010</p>	The Legislature (the members of the Assembly) by a qualified majority of three-fifths
AUSTRIA Austrian Ombudsman Board	<p>Legal framework: Federal Constitution of Austria (excerpt) Chapter seven. Volksanwaltschaft (Austrian Ombudsman Board), Art. 148g</p> <p>Proposal and selection: (2) Volksanwaltschaft members are elected by the Nationalrat on the basis of a joint recommendation drawn up by the Main Committee in the presence of at least half its members. Each of the three parties with the largest number of votes in the Nationalrat is entitled to nominate one member for this recommendation. The members of the Volksanwaltschaft render an affirmation to the Federal President before their assumption of office. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=3029&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (Nationalrat)

COUNTRY/ AUTHORITY	Appointment Clause regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
AZERBAIJAN The Human Rights Commissioner (Ombudsman)	<p>Legal framework: Constitutional Law on the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan, Article 2. Election of the Commissioner</p> <p>Proposal and selection: 2.1. The Commissioner shall be elected by 83 votes majority of the Milli Mejlis of the Republic of Azerbaijan from among three candidates nominated by the President of the Republic of Azerbaijan.</p> <p>2.2. If the Milli Mejlis of the Republic of Azerbaijan fails to come at decision with regard to these three candidates, the President of the Republic of Azerbaijan shall, within 15 days, submit a new list of three candidates to the Milli Mejlis of the Republic of Azerbaijan.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4044&lang=en&t_style=tex&l_style=default, Date of access: 07.09.2010</p>	Nomination by the President of the Republic with legislature (Milli Mejlis) confirmation
BELGIUM The Federal Ombudsmen	<p>Legal Framework: The Federal Ombudsmen Act, Kingdom of Belgium, March 22, 1995</p> <p>Proposal and selection: Article 2. The ombudsmen are appointed by the House of Representatives (lower house of parliament) for a term of six years, after an open invitation to candidates to apply. At the end of each term of office, there is an open invitation to submit applications to renew the board of federal ombudsmen. An ombudsman's term of office can be renewed only once for the same candidate. If his term of office is not renewed, the ombudsman continues to perform his duties until a successor is appointed.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=2832&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>Nomination: open procedure</p> <p>The Legislature (lower house of parliament)</p>

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
BOSNIA AND HERZEGOVINA The Human Rights Ombudsman	<p>Legal Framework: The Law on the Human Rights Ombudsman of Bosnia and Herzegovina entered into force on 3 January 2001 (BaH Official Gazette no 32/00 and 19/02), Article 9</p> <p>Proposal and Selection: 1. The Ombudsmen shall be appointed by the House of Representatives of Bosnia and Herzegovina and by the House of Peoples of Bosnia and Herzegovina by a two-thirds majority of each House, following a joint proposal by the Presidency of Bosnia and Herzegovina. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4461&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the Presidency of Bosnia and Herzegovina with joint legislature (the House of Representatives and the House of Peoples) confirmation by a qualified majority of two-thirds
BOSNIA AND HERZEGOVINA Republika Srpska Ombudsmen	<p>Legal Framework: Law on Republika Srpska Ombudsmen., October, 1999, Article 8</p> <p>Proposal and Selection: 1. Three persons shall compose the institution of the Ombudsman: (of Serb, Bosniak and Croat nationality). 2. They will be elected by National Assembly by a [two-thirds] three-fifth majority, following proposal by the High Judicial Council. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4875&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the Judiciary with legislature (the National Assembly) confirmation by a qualified majority of three-fifths
CROATIA The Ombudsman	<p>Legal framework: Act on the Ombudsman of 25 September 1992, Article 3</p> <p>Proposal and Selection: The Ombudsman shall be elected and relieved of the office by the Chamber of Representatives of the Sabor of the Republic of Croatia (Parliament). The Ombudsman will have three deputies. The Ombudsman deputies shall be elected and relieved of the office by the Chamber of Representatives of the Sabor of the Republic of Croatia (Parliament), at the proposal made by the Ombudsman in person. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4891&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (the Chamber of Representatives)

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
CZECH REPUBLIC Public Defender of Rights	<p>Legal Framework: Law of 8th December 1999 on the Public Defender of Rights, article, 2</p> <p>Proposal and selection: The Defender is elected by the Chamber of Deputies of the Parliament of the Czech Republic for a term of six years, and is chosen from a group of candidates, of whom two are proposed by the President and two by the Senate of the Parliament of the Czech Republic; identical proposals are permitted. The Defender may be elected for a maximum of two consecutive periods</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5711&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nominations submitted by the President of the Republic and the Senate with legislature (the Chamber of Deputies) confirmation
DENMARK The Ombudsman	<p>Legal framework: The Ombudsman Act, Act No. 473 of 12 June 1996,</p> <p>Proposal and Selection: (1) After every general election and when a vacancy occurs, the Folketing shall elect an Ombudsman.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4937&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (the Folketing)
ESTONIA The Legal Chancellor	<p>Legal framework: Legal Chancellor Act Passed on 25 February 1999 (RT* I 1999, 29, 406), entered into force 1 June 1999</p> <p>Proposal and Selection: The Legal Chancellor shall be appointed to office by the Riigikogu upon proposal of the President of the Republic for a term of seven years.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4427&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the President of the Republic with legislature (the Riigikogu) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
FINLAND The Parliamentary Ombudsman	<p>Legal framework: Constitution Act of Finland (excerpt), Issued on 17 July 1919, (as amended by Constitutional Act 1221/90 issued on 21 December 1990 and by Constitutional Act 969/95 issued on 17 July 1995), Article 49</p> <p>Proposal and Selection: A Parliamentary Ombudsman shall be elected for a term of four years at a time in a regular session of Parliament. A person shall be elected who is known to be well versed in law. The election shall be carried out following the same procedure as is used for the election of the Chairman of Parliament. A Deputy Parliamentary Ombudsman, who assists the Parliamentary Ombudsman and discharges his or her duties as necessary, and a Deputy Ombudsman's substitute, who discharges the duties of the Deputy Parliamentary Ombudsman when the latter is disqualified, shall be elected for an equal term of office using the same procedure. In case the Parliamentary Ombudsman dies or resigns before the expiration of the term of office, Parliament may elect a new Parliamentary Ombudsman for the remaining term of office.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4895&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Autonomous function: the Legislature (the Parliament)
FRANCE The Mediator of the French Republic	<p>Legal framework: Law no. 73-6 of 3rd January 1973 establishing a Mediator of the French Republic, as amended</p> <p>Proposal and Selection: The Mediator of the French Republic shall be appointed for a period of six years by decree of the Council of Ministers.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5751&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Executive (the Council of Ministers)
Since 2011: Défenseur des droits	<p>The new office was created by Article 71-1 of the Constitutional Law n° 2008-724 of July 23, 2008. The organic law n° 2011-333 and the ordinary law n° 2011-334 of March 29, 2011 define the competencies and powers of the office. The Défenseur des Droits is nominated by the President of the Republic and confirmed by the competent permanent committees of the Senate and the National Assembly by a qualified majority of three-fifths.</p>	Nomination by the President of the Republic with legislative confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
GEORGIA Public Defender of Georgia	<p>Legal framework: Law on Public Defender of Georgia, May 16, 1996</p> <p>Proposal and selection: Article 6, 1. Any citizen of Georgia may be elected the Public Defender of Georgia.</p> <p>2. The Public Defender of Georgia is elected for a term of 5 years by the majority of total members of the Parliament of Georgia. The right to nominate the Public Defender is granted to the President of Georgia, parliamentary fraction, or at least 10-men group of the MPs who are not members of any fraction.</p> <p>3. Before voting the Chairman of Parliament shall familiarise the Parliament of Georgia with the list of nominees and their written consents on voting to the post of the Public Defender. Each nominee is voted separately by secret ballot.</p> <p>4. The nominee is considered elected by voting who will get more votes but not less than the majority of votes of the total members of the Parliament of Georgia. If more than one nominee gets votes sufficient to be elected but is not elected for equity of votes, those nominees are to be voted together and the one who will get more votes but not less than the majority of votes of total members of the Parliament of Georgia, is considered to be elected. In case of equity of votes the procedure of voting is prolonged till any nominee is elected.</p> <p>5. If no nominee gets votes sufficient to be elected, the new election shall be held not earlier than 7 and not later than 14 days following the first voting. Nominations and elections during the voting are held according to the order established by Points 2, 3 and 4 of this Article.</p> <p>6. One and the same person may be nominated twice only within one cycle of election.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4433&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the President of the Republic and MPs with legislative (Parliament) confirmation
GERMANY The Ombudsman in Rhineland- Palatinate	<p>Legal framework: A State Act to Establish the Office of an Ombudsman in Rhineland-Palatinate, May 3, 1974, as amended, § 9</p> <p>Proposal and selection: The State Parliament shall elect the Ombudsman by secret ballot with the majority of its members.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=6292&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Autonomous function: The State Parliament

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
HUNGARY Ombudsman for the Protection of Civil Rights. Ombudsman for the Protection of National and Ethnic Minority Rights	<p>Legal framework: Constitution of the Republic of Hungary, 1990 (excerpt), Chapter V. Ombudsman for the Protection of Civil Rights. Ombudsman for the Protection of National and Ethnic Minority Rights</p> <p>Proposal and Selection: The Ombudsmen for civil rights and for nationality and ethnic minority rights are elected, on the nomination of the President of the Republic, by Parliament with two-thirds of the affirmative votes of all MPs necessary. For the protection of certain constitutional rights, Parliament may elect separate Ombudsmen. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=6061&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the President of the Republic with legislature (the Parliament) confirmation by a qualified majority of two-thirds
ICELAND The Althing Ombudsman (Parliamentary Ombudsman)	<p>Legal Framework: Act No. 85/1997 on the Althing Ombudsman, Article 1</p> <p>Proposal and Selection: The Althing Ombudsman is elected by Althing for a period of four years. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4949&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (the Althing)
IRELAND The Ombudsman	<p>Legal framework: Ombudsman's Act, 1980 Dáil Éireann (House of Deputies) and Seanad Éireann (Senate).</p> <p>Proposal and Selection: The appointment of a person to be the Ombudsman shall be made by the President upon resolution passed by Dáil Éireann (House of Deputies) and by Seanad Éireann (Senate) recommending the appointment of the person. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5091&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the President of the Republic with joint legislature (the House of Deputies and the Senate) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ITALY Regional Ombudsman Valle d' Aosta	<p>Legal framework: Regional Law No.5 of 2nd March 1992 A Law to Set Up the Office of Regional Ombudsman, (Official Bulletin No. 11 of 10th March 1992), as amended</p> <p>Proposal and Selection: Article 6, 1. The election process for the Regional Ombudsman shall be commenced by means of the publication (through the offices of the Regional Council Chairman) of a Public Notice in the Regional Official Bulletin setting out the following: a) The Region's intention to proceed to the election or re-appointment of the Regional Ombudsman; b) The qualifications required of candidates for the post; c) The financial remuneration; d) The time limit of thirty days from the date of publication of the Notice on the Regional Official Bulletin for the presentation of applications at the Offices of the Regional Council Chairman. 2. Associations of individual citizens may forward proposals for candidates to the Chairman of the Council. 3. Proposals for candidacy must contain the following details in relation to the proposed candidate: a) Personal details and residence; b) Academic qualifications; c) Professional experience; d) Details highlighting the candidate's suitability for the post on the basis of particular skills, experience, professionalism or aptitude. 4. Each proposal for candidacy must be accompanied by a declaration stating the candidate's readiness to accept the post signed by the candidate him or herself. 5. Candidates for the post of Regional Ombudsman must demonstrate a complete knowledge of the French language. To such end, the candidate will have to pass an exam in French prior to the election process. The exam concerned and the procedures to be followed shall be the same as the test given to external applicants for management posts in the Regional Administration. 6. As soon as the deadline for the presentation of applications has passed, the Chairman of the Council shall call the Commission for the election of the Regional Ombudsman in order to carry out the preliminary French test and the subsequent election of the Regional Ombudsman. 7. The Commission for the election of the Regional Ombudsman shall be composed of: a) The Regional Council Chairman who shall act as the Chairman of the Commission; b) The President of the Court of Aosta; c) The President of the Administrative Court of the Valle d'Aosta; d) The Chairman of the Aosta Lawyers' Guild; e) The Chairman of the Regional Supervisory Commission for Local Government Affairs. 8. A permanent teacher of French from secondary schools in the Region shall supplement the Commission for the Election of the Regional Ombudsman, in order to carry out the preliminary test in French. 9. The Commission for the Election of the Regional Ombudsman shall elect the Regional Ombudsman from those candidates passing the preliminary test in French by taking a vote. The candidate to be elected shall be the person who receives votes cast in his or her favour by a majority of the Commission's members. Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=6056&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>Specified Proposal Procedure</p> <p>Special Selection Commission</p>

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
KYRGYZ REPUBLIC The Ombudsman	<p>Legal framework: Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic, passed by the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic on June 25, 2002.</p> <p>Proposal and Selection: Article 4, par. 4. The Ombudsman (Akyikatchy) shall be elected for the position by the Legislative Assembly of the Kyrgyz Republic by secret vote through submission of bulletins.</p> <p>5. Deputies shall vote separately for each candidate for a position of the Ombudsman (Akyikatchy).</p> <p>6. The Ombudsman (Akyikatchy) shall be considered as elected if the candidate has received the simple majority vote of the deputies of the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic.</p> <p>7. If more than one candidate has received enough votes to be elected but the winner may not be established due to the same number of votes cast for each candidate, the deputies shall vote for several such candidates at the same time whereas the candidate who gets more votes shall be considered as elected. In case of equal distribution of votes the procedure of election shall be repeated until the Ombudsman (Akyikatchy) is elected.</p> <p>8. If none of the candidates has received enough votes to be elected, then second election is made not earlier than 7 days and not later than 14 days after the time of the original election.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5757&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (Jogorku Kenesh)
LATVIA The Latvian National Human Rights Office	<p>Legal framework: Law on the Latvian National Human Rights Office, December 5, 1996, Article 3. Director of the Office</p> <p>Proposal and Selection: 1. The Office is guided by the Director who is appointed to the position by the Saeima for four years according to the suggestion of the Cabinet of Ministers</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4129&lang=en&t_style=tex&l_style=default, 07.09.2010</p>	Nomination by the Cabinet with legislature (the Saeima) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
LITHUANIA The Seimas (Parliamentary) Ombudsmen	<p>Legal framework: Law on the Siemas Ombudsmen, 3 December 1998 No. VIII-950, article 6</p> <p>Proposal and Selection: 1. The Seimas Ombudsmen shall be appointed for the term of 4 years from the candidates nominated by the Chairman of the Seimas of the Republic of Lithuania.</p> <p>2. When nominating candidates to the post of Ombudsmen, the Chairman of the Seimas shall specify the officers to whom, subsequent to their appointment, their respective investigative jurisdiction will extend.</p> <p>3. Specifying the sphere of activities of each Ombudsman, the Seimas shall appoint 5 Seimas Ombudsmen: 2 Ombudsmen for the investigation of activities of state institutions, 1 for the investigation of military institutions and those ranking as military institutions and 2 for the investigation of activities of local government officers.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4900&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>Autonomous function:</p> <p>The legislature (the Seimas) upon proposal of the Speaker of Parliament</p>
FYROM (Former Yugoslavian Republic of Macedonia)	<p>Legal framework: Law on the Public Attorney (Ombudsman) of 13 February 1997, article 4</p> <p>Proposal and Selection: The Public Attorney shall be elected and dismissed by the Assembly of the Republic of Macedonia. The Public Attorney shall be elected for a term of eight years, liable to appointment for another term only.</p> <p>The Public Attorney can have one or more deputies of his. The number of deputies shall be determined by the Assembly of the Republic of Macedonia at the proposal by the Public Attorney. The deputies of the Public Attorney shall be elected and dismissed by the Assembly of the Republic of Macedonia, at the proposal by the Public Attorney.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4877&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>The Legislature (the Parliament)</p>

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
MOLDOVA Parliamentary Advocates	<p>Legal framework: Law on Parliamentary Advocates, Law #1349-XIII of October 17, 1997</p> <p>Proposal and Selection: Article 4: The Parliament appoints three Parliamentary Advocates, which have equal rights and tasks. Article 5(1) The parliamentary advocates are nominated with majority of votes of the elected parliamentarians.</p> <p>(2) The proposals regarding candidates for Parliamentary Advocates positions are moved in the Parliament by the President of the Republic of Moldova, by a group of no less than 20 parliamentarians, and by the Government within one month before the authority of the previous Parliamentary Advocates ends.</p> <p>(3) For each of the candidates a reference of the Parliamentary Committee on Human Rights and National Minorities should be provided to the Parliament.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4419&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	Nomination by the President of the Republic, MPs and the Government with legislature confirmation
NORWAY The Storting's (Parliamentary) Ombudsman	<p>Legal framework: Act concerning the Storting's Ombudsman for Public Administration of 22 June 1962</p> <p>Proposal and Selection: After each General Election the Storting shall elect an Ombudsman for Public Administration, the Civil Ombudsman. The Election is for a period of four years reckoned from 1 January of the year following the General Election.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5010&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	The Legislature (the Storting)

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
POLAND Commissioner for Civil Rights Protection	<p>Legal framework: Act of 15 July 1987 on Commissioner for Civil Rights Protection, Article 3</p> <p>Proposal and Selection: 1. The Commissioner shall be appointed by the Sejm upon approval of the Senate on a motion tabled by the Speaker of the Sejm or by a group of 35 deputies.</p> <p>2. Detailed nomination procedures for the Commissioner shall be determined by resolution to be carried by the Sejm.</p> <p>3. The resolution of the Sejm whereby the Commissioner is appointed shall be conveyed forthwith by the Speaker of the Sejm to the Speaker of the Senate.</p> <p>4. The Senate shall carry a resolution regarding approval of the appointment of the Commissioner within one month of receipt of the Sejm's resolution mentioned in par. 3 hereof. The Senate's failure to carry such resolution within one month shall be tantamount to approval.</p> <p>5. Should the Senate disapprove of the Commissioner nominee, the Sejm shall appoint another person Commissioner. The provisions of par. 1-4 shall apply respectively.</p> <p>6. The outgoing Commissioner shall perform the Commissioner's duties until the office is taken over by the new Commissioner.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5018&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>Autonomous function: The legislature (the Sejm) with Senate confirmation</p>
PORTUGAL The Ombudsman	<p>Legal framework: Statute of the Ombudsman, Law nr. 9/91, of 9 April 1991, as amended</p> <p>Proposal and Selection: Article 5, 1 - The Ombudsman shall be appointed by the Parliament, by a two thirds' majority of the Members present where that majority is larger than the absolute majority of the Members entitled to vote.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4083&lang=en&t_style=tex&l_style=default, date of access: 07.09.2010</p>	<p>The legislature (the Parliament) by a qualified majority of two-thirds of the members present</p>

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the Ombudsmen and deputy Ombudsmen in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SWEDEN The Parliamentary Ombudsman	<p>Legal framework: Instrument of Government, Article 6, The Riksdag Act, Article 11</p> <p>Selection: Article 11: The Riksdag is to elect Ombudsmen to monitor the application of laws and other regulations by public agencies.</p> <p>Available at: http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=5132&lang=en&t_style=tex&l_style=default date of access: 07.09.2010</p>	
UNITED KINGDOM Parliamentary and Health Service Ombudsman	<p>Legal framework: Parliamentary Commissioner Act, 1967, the Health Service Commissioners Act 1993</p> <p>Selection: The Prime Minister</p> <p>For the first time in 2011 the recruitment was managed by the House of Commons Service, in close co-operation with the Government (Cabinet Office and Department of Health). A selection panel was constituted, and the post was openly advertised. The selection panel reported its findings to the Prime Minister and asked him to table a motion to allow the House of Commons to approve the appointment. Before the legislative confirmation, a pre-appointment hearing of the candidate before the Public Administration Select Committee took place.</p>	<p>Prime Minister</p> <p>Since 2011 Confirmation by the House of Commons through an open selection procedure</p>

Appendix 6

Appointments Clauses of the heads and members of the boards of the **national regulatory authorities for the protection of personal data** in Council of Europe member states – Branch of the government/Organ/s participating in the selection mechanism

Sources: Council of Europe, Human Rights and Legal Affairs, Website:

www.coe.int/t/e/legal_affairs/legal_cooperation/data_protection/documents/national%20laws/1NATIONALLAWS_en.asp, date of access: 08.09.2010

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ALBANIA Data protection Commissione	Legal Framework: Law No. 9887 dated 10.03.2008, article 33 Proposal and selection of members: 1. The Commissioner shall be elected by the Assembly upon a proposal of the Council of Ministers for a 5 year term eligible for re-election. Available at: http://www.coe.int/t/e/legal_affairs/legal_cooperation/data_protection/documents/national%20laws/1ALBANIA_DPLaw2008.pdf , date of access: 08.09.2010	Nomination by the Cabinet with legislature (Parliament) confirmation
AUSTRIA The Data Protection Commission	Legal Framework: Federal Act Concerning the Protection of Personal Data (Datenschutzgesetz 2000 - DSG 2000); Number of members: 6; Proposal and selection of members: Sect. 36 (1) The Data Protection Commission [<i>Datenschutzkommission</i>] shall consist of six members appointed by the Federal President [<i>Bundespräsident</i>] on a proposal of the Federal Government [<i>Bundesregierung</i>] for a term of five years. Reappointments shall be permitted. All members shall have legal expertise. One member shall be a judge. (2) The proposal of the Federal Government for the nomination of the members of the Data Protection Commission shall be prepared by the Federal Chancellor. The Federal Chancellor shall choose from 1. a proposal of three candidates by the President of the Supreme Court [footnote 27] [<i>Oberster Gerichtshof</i>] for the judge, 2. a proposal of the states [<i>Bundesländer</i>] for two members, 3. a proposal of three candidates by the Federal Chamber of Labour [footnote 28] [<i>Bundeskammer für Arbeiter und Angestellte</i>] for one member, 4. a proposal of three candidates by the Austrian Federal Economic Chamber [footnote 29] [<i>Wirtschaftskammer Österreich</i>] for one member. Available at: http://www.coe.int/t/e/legal_affairs/legal_cooperation/data_protection/documents/national%20laws , date of access: 08.09.2010	Pluralistically composed council Appointment by the Executive (the Federal President) upon proposal of the Federal Government. Nomination by the Supreme Court, the States, the Federal Chamber of Labour and the Austrian Federal Economic Chamber

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
BOSNIA AND HERZEGOVINA	<p>Legal framework: Law on the protection of personal data, 2001, Official Gazette of BiH, 32/01</p> <p>Number of members: 5</p> <p>Proposal and Selection: Article 19 The Council of Ministers of Bosnia and Herzegovina (hereinafter: the Council of Ministers) shall, on the proposal of the Ministry for Civil Affairs and Communications, appoint a commission for data protection and to monitor the access to and transfer of personal data to be called the Data Protection Commission (hereinafter: the Commission). . . . The Commission shall have five members who will be appointed by the Council of Ministers. Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1BiH_DP_LAW.pdf, date of access: 08.09.2010</p>	The Executive (the Council of Ministers) upon proposal of the competent Minister
BULGARIA Commission for Personal Data Protection	<p>Legal framework: Personal Data protection act, 2002, as amended</p> <p>Number of members: 5; Proposal and Selection: Art. 7 (1) The Commission shall be a collegiate body consisting of a Chairman and four members. (2) The members of the Commission and the Chairman shall be designated by the Council of Ministers and elected by the National Assembly for a five-year term of office and shall be eligible for one re-election. Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1BULGARIA-personal_Dataprotection_Act.pdf, date of access: 08.09.2010</p>	Nomination by the Cabinet with legislature (the Parliament) confirmation
CYPRUS Commissioner for the Protection of Personal Data	<p>Legal framework: Law 138 (I) 2001; Proposal and Selection: 18.(1) There shall be appointed a Commissioner for the Protection of Personal Data (hereinafter referred to as "the Commissioner") who shall be responsible for monitoring the application of this Law and other provisions relating to the protection of individuals with regard to the processing of personal data and who shall exercise the functions assigned to him from time to time by this or any other law. (2) The appointment of the Commissioner, shall be made by the Council of Ministers on the recommendation of the Minister and after consultation with the Parliamentary Committee of European Matters. Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1CYPRUS_DP_LAW_138(I)-2001_en.pdf, date of access: 08.09.2010</p>	The Executive (the Council of Ministers) upon proposal of the competent Minister and after consultation with the Parliamentary Committee on European Matters

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
CZECH REPUBLIC Office for the Protection of Personal Data	<p>Legal framework: the Personal Data Protection Act, 2000</p> <p>Proposal and Selection: Article 32</p> <p>(1) The Office is directed by the President who shall be appointed and recalled by the President of the Czech Republic on the basis of a proposal of the Senate of the Parliament of the Czech Republic.</p> <p>Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1CZECHREP_DPLAW_2000.pdf, date of access: 08.09.2010</p>	Appointment and removal by the Executive (the President of the Republic) upon proposal of the Senate of the Parliament
DENMARK The Data Protection Agency	<p>Legal framework: The Act on Processing of Personal Data Act No. 429 of 31 May 2000, as amended</p> <p>Proposal and Selection: Chapter 16 (3) The Council, which shall be set up by the Minister of Justice, is composed of a chairman, who shall be a legally qualified judge, and of six other members. Substitutes may be appointed for the members of the Council.</p> <p>Available at: http://www.legislationline.org/documents/action/popup/id/6481, date of access: 08.09.2010</p>	The Executive (the Minister of Justice)
ESTONIA Estonian Data Protection Inspectorate	<p>Legal framework: Personal Data Protection Act, 1996 as amended</p> <p>Proposal and Selection: § 36. (1)The Government of the Republic shall appoint the head of Data Protection Inspectorate to office for a term of five years at the proposal of the Minister of Justice after having heard the opinion of the Constitutional Committee of the Riigikogu (the Parliament of Estonia).</p> <p>Available at: http://www.aki.ee/eng/?part=html&id=105, date of access: 08.09.2010</p>	Nomination by the Minister of Justice with legislature (the Constitutional Committee of the Parliament of Estonia) confirmation. Appointment by the Cabinet.

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
FINLAND The Office of the Data Protection Ombudsman	<p>Legal framework: The Personal Data File Act, (1988), Personal Data Act (1999), as amended.</p> <p>The Authority: The Data Protection Ombudsman and the Data Protection Board.</p> <p>Number of members (the Data Protection Board): 7</p> <p>Proposal and Selection: The office is run by the Data Protection Ombudsman, appointed by the Council of State for a term of five years. The Data Protection Board consists of a chair, deputy chair and five members, who are required to be familiar with register operations. The Board is appointed by the Council of State for a term of three years. Available at: http://www.legislationline.org/topics/country/32/topic/3, date of access: 08.09.2010</p>	The Judiciary (the Council of the State)
FORMER YUGOSLAV REPUBLIC OF MACEDONIA (FYROM) Directorate for protection of personal data	<p>Legal framework: Law on Personal Data Protection, 2005</p> <p>Proposal and Selection: The Directorate is headed by the Director who is nominated and suspended by the Assembly of the Republic of Macedonia upon a proposal given by the Government of the Republic of Macedonia.</p> <p>Available at: http://www.legislationline.org/topics/country/31/topic/3, date of access: 08.09.2010</p>	Nomination by the Government with legislature (the Assembly) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
FRANCE Commission nationale de l'informatique et des libertés (CNIL), (The French Data Protection Authority)	<p>Legal framework: Act n°78-17 of 6 January 1978 on Data Processing, Data Files and Individual Liberties, as amended</p> <p>Number of members: 17</p> <p>Composition, Proposal and Selection: and Article 13 I. - The “Commission nationale de l’informatique et des libertés” shall be composed of seventeen members:(1) two Members of the “Assemblée nationale” (National Assembly) and two Members of the “Sénat” (Senate), appointed by the National Assembly and the Senate respectively; (2) two members of the “Conseil économique et social” (Economic and Social Council), elected by that body; (3) two members or former members of the “Conseil d’Etat” (the French Supreme Administrative Court), at least with the rank of “conseiller” (counsellor), elected by the general assembly of the “Conseil d’Etat”; (4) two members or former members of the “Cour de Cassation” (the French Judicial Supreme Court), at least with the rank of “conseiller” (counsellor), elected by the general assembly of the “Cour de Cassation”; (5) two members or former members of the “Cour des Comptes” (Accounting Court), at least with the rank of “conseiller maître” (senior counselor), elected by the general assembly of the “Cour des Comptes”; 14 (6) three eminent persons chosen for their knowledge of information technology or questions related to individual liberties, appointed by decree; (7) two eminent persons chosen for their knowledge of information technology, appointed by the President of the National Assembly and by the President of the Senate respectively. The Commission shall elect among its members a chairman and two vice-chairmen, one of them as delegate vice chairman, who together form the “bureau” (executive committee). Available at: http://www.legislationline.org/topics/country/30/topic/3, date of access: 08.09.2010</p>	Multiple Selection Organs: the Judiciary, the Legislative (the National Assembly and the Senate, the Speakers of the National Assembly and the Senate) the Economic and Social Council, the Executive (the President of the Republic)
GERMANY The Federal Commissioner for Data Protection and Freedom of Information	<p>Legal framework: Federal Data Protection Act, 2006 as amended</p> <p>Proposal and Selection: Section 22 (1) At the proposal of the Federal Government, the German Bundestag shall elect the Federal Commissioner for Data Protection and Freedom of Information with more than half of the statutory number of its members. . . The person elected shall be appointed by the Federal President. Available at: http://www.bfdi.bund.de/cae/servlet/contentblob/1086936/publicationFile/87545/BDSG_idFv01092009.pdf, date of access: 08.09.2010</p>	Nomination by the Government with legislature (the Bundestag) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
ICELAND The Data Protection Authority	<p>Legal framework: Act on the Protection and Processing of Personal Data, No. 77/2000, as amended</p> <p>Number of members: 5 with their alternates</p> <p>Proposal and Selection: Article 36, The Minister shall appoint five persons to the Data Protection Authority's board of directors and an equal number of alternative members, for a period of four years at a time. The chairman and vice-chairman of the board are appointed without nomination and they shall be lawyers and fulfill the job requirements of district court judges. The Supreme Court of Iceland nominates one board member and the Icelandic Society for Information Processing shall nominate another and he shall be an expert in the field of computers and technology. Alternative board members shall fulfill the same requirements as the principal members.</p> <p>The Minister [of Justice], having received the recommendations of the board of directors, appoints the Data Protection Commissioner for a period of five years at a time. The Commissioner is in charge of daily management and hires other employees of the Authority. The Commissioner is responsible for the financial matters and personal management of the Data Protection Authority.</p> <p>Available at: http://www.legislationline.org/topics/country/24/topic/3, date of access: 08.09.2010</p>	Nomination by the Executive, the Judiciary and the Icelandic Society for Information Processing
IRELAND Office of Data Protection Commissioner	<p>Legal framework: Data Protection Act 1988, as amended</p> <p>Proposal and Selection: Section 9 2. (1) The Commissioner shall be appointed by the Government and, subject to the provisions of this Schedule, shall hold office upon such terms and conditions as the Government may determine.</p> <p>Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1IRELAND_DPA88&03Compendium.pdf, date of access: 08.09.2010</p>	No Specified proposal procedure The Executive (the Government)

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
LATVIA Data State Inspectorate	<p>Legal framework: Personal Data Protection Law, 2000 as amended</p> <p>Proposal and Selection: Section 29 [The Authority is single-headed.] The State Data Inspectorate shall be managed by a director who shall be appointed and released from his or her position by the Cabinet pursuant to the recommendation of the Minister for Justice. [24.10.2002]</p> <p>Available at: http://www.legislationline.org/topics/country/19/topic/3, date of access: 08.09.2010</p>	The Executive (the Cabinet) upon proposal of the Minister of Justice
LIECHTENSTEIN i) The Data Protection Commissioner ii) The Data Protection Commission	<p>Legal framework: Data Protection Act, 2002</p> <p>i. The Data Protection Commissioner</p> <p>Proposal and Selection: Article 28, The Data Protection Commissioner shall be appointed by the government.</p> <p>B. The Data Protection Commission</p> <p>Proposal and Selection Article 33, 1) The Data Protection Commission shall consist of three members which shall be elected by the Diet for a term of four years together with two alter nate members. The Diet shall designate the President and Vice President of the Commission.</p> <p>Available at: http://www.legislationline.org/topics/country/18/topic/3, date of access: 08.09.2010</p>	<p>i) The Executive (the Government)</p> <p>ii) The Legislature (the Diet)</p>
LITHUANIA State Data Protection Inspectorate	<p>Legal framework: Law on legal protection of personal data, 21 January 2003, No. IX-1296</p> <p>Proposal and Selection: [The Authority is single-headed] Article 38. 1. The State Data Protection Inspectorate shall be headed by the Director of the State Data Protection Inspectorate. 2. The Director of the State Data Protection Inspectorate shall be a civil servant, the head of the institution, taken into service through competition for the period of office of five years and shall be dismissed by the Prime Minister in accordance with the procedure established in the Law on Civil Service.</p> <p>Article 39. 1. The Director of the State Data Protection Inspectorate shall have deputies. 2. Deputy Directors shall be taken into service by the Director of the State Data Protection Inspectorate in accordance with the procedure established in the Law on Civil Service. The State Data Protection Inspectorate shall be a Government institution financed from the State budget. It shall be accountable to the Government.</p> <p>Available at: http://www.legislationline.org/topics/country/17/topic/3, date of access: 08.09.2010</p>	Open Procedure The Executive

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
MALTA i) The Data Protection Commissioner ii) Data Protection Appeals Tribunal	<p>Legal framework: Data Protection Act, 2001, as amended</p> <p>Proposal and Selection: 36. (1) There shall be a Data Protection Commissioner who shall be appointed by the Prime Minister after he has consulted the Leader of the Opposition.</p> <p>Number of members: 3</p> <p>Proposal and Selection 48. (1) There shall be a Tribunal to be known as the Data Protection Appeals Tribunal, in this Act referred to as "the Tribunal", having the functions and powers assigned to it by this Act or by any other law. (2) The Tribunal shall consist of a chairman and two other members appointed by the Minister. (3) The chairman shall be an advocate with a minimum of twelve years legal experience. (4) The two other members mentioned in subarticle (2) shall be persons who in the opinion of the Minister represent the interests of data subjects and of data controllers. Available at: http://www.coe.int/t/e/legal_affairs/legal_cooperation/data_protection/documents/national%20laws/1MALTA_New_DP_LAW.pdf, date of access: 08.09.2010</p>	<p>i) The Executive (the Prime Minister after consultation with the Leader of the Opposition)</p> <p>ii) The Executive (the Minister)</p>
NETHERLANDS Data Protection Authority	<p>Legal framework: Personal Data Protection Act, 1999</p> <p>Number of members: 3; Proposal and Selection: Article 53 1. The Data Protection Commission comprises a chairperson and two other members. In addition, special members may be appointed to the Commission. In the appointment of special members, all efforts shall be made to reflect the various sectors of society. 2. The chairperson must fulfil the requirements governing the appointment of district court judges, as laid down in Article 48(1) of the Judicature Act (Wet op de rechterlijke organisatie). 3. The chairperson shall be appointed by royal decree, on the proposal of Our Minister, for a six year term. The other two members and the special members shall be appointed by royal decree, on the proposal of Our Minister, for a four-year term. The members may be reappointed immediately thereafter. At their own request, they are discharged by the Minister of Justice. 4. An advisory board has been established with the task to advise the Commission on general aspects of the protection of personal data. The members shall be drawn from the various sectors of society and shall be appointed by Our Minister, on the proposal of the Commission. Available at: http://www.coe.int/t/e/legal_affairs/legal_cooperation/data_protection/documents/national%20laws/1NL_DP_LAW.pdf, date of access: 08.09.2010</p>	<p>The Executive (the Minister of Justice)</p>

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
NORWAY Data Inspectorate	Legal framework: Personal Data Act, 2000	
i. The Director	Proposal and Selection: The Data Inspectorate is headed by a director who is appointed by the King.	i) The Executive (the King)
ii. The Privacy Appeals Board	Number of members: 7 Proposal and Selection: The Privacy Appeals Board consists of seven members who are appointed for a term of four years with the possibility of reappointment for a further four years. The chairman and deputy chairman are appointed by the Storting. The other five members are appointed by the King. Available at: http://www.legislationline.org/topics/country/11/topic/3 , date of access: 08.09.2010	The Legislature (the Storting-Parliament) and the Executive (the King)
POLAND Inspector General for the Protection of Personal Data	Legal framework: Act on the protection of personal data, 1997, as amended Proposal and Selection: Article 8.2. The Inspector General is appointed and dismissed by the Diet of the Republic of Poland with the consent of the Senate. Available at: http://www.legislationline.org/topics/country/10/topic/3 , date of access: 08.09.2010	The Legislature (the Diet) with Senate confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
PORTUGAL National Commission for Data Protection	<p>Legal framework: Act 67/98 of 26 October 1998, Act on the Protection of Personal Data, as amended</p> <p>Number of members: 7</p> <p>Proposal and Selection: SECTION II Article 25, 1 – The CNPD shall be composed of seven members of recognised integrity and merit, the chairman and two members being elected by the <i>Assembleia de República</i> by means of the d'Hondt highest average rule.</p> <p>2 – The remaining members shall be:</p> <p>(a) two magistrates with over 10 years' experience, one being a legal magistrate appointed by the Magistrate Council , and the other a Public Prosecution Service magistrate appointed by the Public Prosecution Council;</p> <p>(b) two individuals of recognised competence appointed by the Government.</p> <p>3 – The members of the CNPD shall have a five-year mandate which shall cease when the newly appointed members take office.</p> <p>4 - The members of the CNPD shall be set down on the list published in the 1 st series of the <i>Diário da República</i> .</p> <p>5 – The members of the CNPD shall take office before the President of the <i>Assembleia de República</i> in the 10 days following publication of the list referred to in the previous number.</p> <p>Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1PORTUGAL_DP_LAW.pdf, date of access: 08.09.2010</p>	Nomination by the Legislature (Parliament), the Judiciary and the Government
SLOVAKIA Office for Personal Data Protection	<p>Legal framework: Act on Protection of Personal Data, Act 428, 2002, as amended</p> <p>Proposal and Selection: Section 35 (1) The Office shall be headed by a President.</p> <p>(2) The National Council of the Slovak Republic shall elect and recall the President of the Office upon a proposal submitted by the Government of the Slovak Republic.</p> <p>Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1Slovak%20Republic_DPLAW.pdf, date of access: 08.09.2010</p>	Nomination by the Government with legislature (the Parliament) confirmation

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SLOVENIA The Information Commissioner	<p>Legal framework: Personal Data Protection Act (ZVOP-1), 2004, as amended by the Information Commissioner Act, 2005</p> <p>Proposal and Selection: Article 6 (1) Information Commissioner is appointed by the National Assembly of the Republic of Slovenia on proposal of the president of the Republic of Slovenia. Available at: http://www.ip-rs.si/index.php?id=325, date of access: 08.09.2010</p>	Nomination by the President of the Republic with legislature (the National Assembly) confirmation
SPAIN Spanish Data Protection Authority (AEPD) i. The Director ii. The Consultative Council	<p>Legal framework: Organic Law 15/1999 on the Protection of Personal Data, as amended</p> <p>Proposal and Selection: Article 36. 1. The Director of the Data Protection Agency manages and represents the Agency. He shall be appointed from amongst the members of the Consultative Council, by Royal Decree, for a period of four years; Number of members: 9; Proposal and Selection: Article 38. <i>Consultative Council</i> The Director of the Data Protection Agency shall be assisted by a Consultative Council made up of the following members:; One member of the Congress of Deputies, proposed by the Congress. One member of the Senate, proposed by the Senate; One member of the central administration, proposed by the Government; One member of the local administration, proposed by the Spanish Federation of Municipalities and Provinces; One member of the Royal Academy of History, proposed by the Academy; One expert in the field, proposed by the Supreme Council of Universities; A representative of users and consumers, to be selected according to a method to be laid down by regulation; One representative of each Autonomous Community which has set up a data protection agency on its territory, to be proposed in accordance with the procedure laid down by the Autonomous Community concerned. One representative of the private file sector, to be proposed according to the procedure laid down by regulation. The Consultative Council shall operate in accordance with the regulations laid down for that purpose. Available at: http://www.coe.int/t/e/legal_affairs/legal_co-operation/data_protection/documents/national%20laws/1SPAIN_Organiclaw_15_99.pdf, date of access: 08.09.2010</p>	Specified Proposal Procedure Multiple Selection Organs

COUNTRY/ AUTHORITY	Appointments Clauses regarding the selection mechanism (nomination, selection, appointment) of the heads and members of the boards of national regulatory authorities for the protection of personal data in Council of Europe member states	Branch of the government/Organ/s participating in the selection mechanism
SWITZERLAND Federal Data Protection and Information Commissioner	Legal Framework: Federal Act on Data Protection, 1992, as amended Proposal and Selection: Art. 26The Commissioner is appointed by the Federal Council. Available at: http://www.admin.ch/ch/e/rs/2/235.1.en.pdf ,_date of access: 08.09.2010	The Executive (the Federal Council)
UNITED KINGDOM Information Commissioner	Legal framework: Data Protection Act 1998 Proposal and Selection: Chapter 29 The Commissioner and the Tribunal (1) The office originally established by section 3(1)(a) of the [1984 c. 35.] Data Protection Act 1984 as the office of Data Protection Registrar shall continue to exist for the purposes of this Act but shall be known as the office of Data Protection Commissioner; and in this Act the Data Protection Commissioner is referred to as “the Commissioner”. (2) The Commissioner shall be appointed by Her Majesty by Letters Patent. Since 2008, a parliamentary select committee hold pre-appointment hearings (3) For the purposes of this Act there shall continue to be a Data Protection Tribunal (in this Act referred to as “the Tribunal”). (4) The Tribunal shall consist of— (a) a chairman appointed by the Lord Chancellor after consultation with the Lord Advocate, (b) such number of deputy chairmen so appointed as the Lord Chancellor may determine, and (c) such number of other members appointed by the Secretary of State as he may determine. (5) The members of the Tribunal appointed under subsection (4)(a) and (b) shall be— (a) persons who have a 7 year general qualification, within the meaning of section 71 of the [1990 c. 41.] Courts and Legal Services Act 1990, (b) advocates or solicitors in Scotland of at least 7 years' standing, or (c) members of the bar of Northern Ireland or solicitors of the Supreme Court of Northern Ireland of at least 7 years' standing. (6) The members of the Tribunal appointed under subsection (4)(c) shall be— (a) persons to represent the interests of data subjects, and (b) persons to represent the interests of data controllers. (7) Schedule 5 has effect in relation to the Commissioner and the Tribunal Available at: http://www.opsi.gov.uk/acts/acts1998/ukpga_19980029_en_2#pt1-11g4 , date of access:08.09.2010.	The Executive upon confirmation without veto by a parliamentary select committee The Executive (the Lord Chancellor after consultation with the Lord Advocate)

Appendices

Chapter 2

APPENDIX 1

Career Paths of the Members of the Supreme Council for the Selection of Personnel

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
1	M. P. (J1)	Government Gazette vol. C, no 56, 5.4.1994 President His mandate was renewed from April 6, 2000 until December 31, 2001 (article 7 of the law 2527/1997) Government Gazette vol. C, no 38, 24.2.2000	End of mandate on April 24, 2003 (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Vice- President of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)					
2	T. P. (J2)	Government Gazette vol. C, no 56, 5.4.1994 Vice-President	Retired due to age limit (Government Gazette, vol. C, no 272, 21.12.1995) J3 was elected as Vice-President (53 and 72 decisions of ASEP in Plenum (Annual Report for the year 1995, Government Gazette, vol. B', no. 286, 12.03.2003)	Honorary Councillor of State			President of the Supervisory Council of the Body of Certified Appraisers (mandate 14.4.1994-21.10.1994), Government Gazette, vol. B', no 269, 14.4.1994) Declaration of abdication (submission of resignation) (Government Gazette, vol. B, no 671, 7.9.1994)		
3	C. P. (J3)	Government Gazette vol. C, no 69, 26.4.1994 Councillor He was elected Vice-President to fill the vacant post of J2 (53 and 72 decisions of ASEP in Plenum, Annual Report for the year 1995, Government Gazette, vol. B', no. 286, 12.03.2003) Vice-President	Retired due to age limit (Government Gazette, vol. C, no 353, 27.12.2000). J15 was elected Vice-President to fill the vacant post	Honorary Vice-President of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)				President of the Committee of article 4 of the legislative decree 76/1974 on the restoration of civil servants sacked or forced to resign during the dictatorship of the colonels (1967-1974). He was substituted in 1992. (Government Gazette, vol. B, no 444, 9.7.1992)	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
4	A. A. (J4)	Government Gazette vol. C, no 69, 26.4.1994 Councillor	On May 30, 1995, J4 passed away. J12 was elected to fill the vacant post (Annual Report for the year 1995, p. 3423, Government Gazette, vol. B', no. 286, 12.03.2003)	Honorary Vice-President of the Court of Audit					
5	V. L. (J5)	Government Gazette vol. C, no 69, 26.4.1994 Councillor	Retired due to age limit (Government Gazette, vol. C, no 236, 15.12.1998)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)			Member of the Multi-member Council of the Rizareios Church School (Government Gazette, vol. B, no 655, 30.8.1993)	Vice-President of the Supreme Disciplinary Council of the Lawyers (1992) (Government Gazette, vol. B, no 720, 2.12.1992)	President of the National Council for Radio and Television (mandate: 17.12.1999-31.5.2002), Government Gazette, vol. B', no 2177, 17.12.1999, and vol. B', no 856, 11.7.2000) Ex Officio Member of the National Committee for Human Rights representing the National Council for Radio and Television (Government Gazette, vol. B', no 24, 18.1.2000)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
6	G. V. (U6)	Government Gazette vol. C, no 69, 26.4.1994 Councillor He was selected second Vice-President of the authority on December 1999 pursuant to article 20 of law 2738/1999 providing for the establishment of a second post of Vice-President (Annual report, 1999) Government Gazette vol. B, no 486, 21.4.2003 New appointment after the constitutional revision of 2001 President (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008)	End of mandate: 2012	Professor at the National Technical University of Athens Professor Emeritus at the National Technical University of Athens		Professor at the School of Rural and Surveying Engineering of the National Technical University of Athens	Special Scientist (Expert) at the Geodetic and Geophysical Committee of the State (Government Gazette, vol. B', no 40, 27.1.1992) President of the Geodetic and Geophysical Committee of the State Two year mandate: 1996-1998 (Government Gazette, vol. B', no 874, 17.9.1996) President of the Scientific Council of the National Observatory of Athens (three year mandate), Government Gazette, vol. B', no 316, 21.4.1997) Member of the Management Board of the Centre for Educational Research (three year mandate) (Government Gazette, vol. B, no 422, 31.5.1996) Submission of resignation on 6.2.1997 (Government Gazette, vol. B, no 193, 17.3.1997)	President of the Hellenic Mapping and Cadastral Organisation (OKXE), President of the National Consultative Council for Research, Source: Official Website of the Federation of the Employees of the Independent Authorities, available at: http://www.google.gr/search?hl=el&source=hp&q=OEAA+%CE%93%CE%B5%CF%8E%CF%81%CE%B3%CE%B9%CE%BF%CF%82+%CE%92%CE%AD%CE%B7%CF%82+%CE%A3%CF%8D%CE%BD%CF%84%CE%BF%CE%BC%CE%BF+%CE%92%CE%B9%CE%BF%CE%B3%CF%81%CE%B1%CF%86%CE%B9%CE%BA%CF%8C+%CE%A3%CE%B7%CE%BC%CE%B5%CE%AF%CF%89%CE%BC%CE%B1&meta=&rlz=1R2PCTA_elGR329&aq=f&aqi=&aqi=&aqi= , date of access: 27.2.2011	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
7	I. K.	(U7) Councillor	Government Gazette vol. C, no 69, 26.4.1994 Submission of resignation 2.6.1997 (Source, Annual Report of the year 2004 and review of the decade 1994-2004, Government Gazette, vol. B, no 1653, 29.11.2005, p. 22670) SOS NO FEK	Member of the European Parliament in the European elections of 1999 with the party of Pasok		Professor at the School of Law of the Aristotle University of Thessaloniki (Labour Law)	President of the Economic and Social Committee (Government Gazette, vol. B', no 930, 14.12.1994) President of the Management Board of the Organisation for Mediation and Arbitration (1991-1999) Source: The Official Website of the University of Thessaloniki, available at: http://www.law.auth.gr/astiko/html/eioeeuaco.html , date of access: 28.11.2010 and the Government Gazette, vol. B', no 910, 8.12.1994 President of the legislative drafting committee for the establishment of the Economic and Social Committee (Law 2232/1994) Vice-President of the Teloglio Foundation of Art Source: The Official Website of the University of Thessaloniki, available at: http://www.law.auth.gr/astiko/html/eioeeuaco.html , date of access: 28.11.2010	Minister of Labour at the Grivas caretaker Government (12.10.1989-23.11.1989) (G.G. Vol. A, no 233/12.10.1989) Vice-President of the Governing Board of the University of Thessaly President of the legislative drafting committee for the new legal framework of free collective bargaining (Law 1876/1990) Source: The Official Website of the University of Thessaloniki, available at: http://www.law.auth.gr/astiko/html/eioeeuaco.html , date of access: 28.11.2010	President of the Management Board of the Organisation for Mediation and Arbitration (2 year mandate, Government Gazette, vol. B', no 256, 23.3.1999) Submission of resignation (Government Gazette, vol. B', no 1600, 16.8.1999) Member of the European Parliament in the European elections of 1999 with the party of Pasok Professor Emeritus at the Aristotle University of Thessaloniki President of the Legislative Drafting Committee at the Ministry of Labour and Social Security, Source: Ministry of Labour and Social Security, available at: http://www.ypakp.gr/uploads/docs/3623.pdf , date of access: 25.2.2011

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8	V. S. (U8)	Government Gazette vol. C, no 69, 26.4.1994 Councillor	Submission of resignation on 30.10.1996 (Government Gazette vol. C, no 226, 18.11.1996)			Professor at the School of Law of the Aristotle University of Thessaloniki (Public Law- Constitutional and Administrative Law)	Secretary of the Management Board of the Centre for International and European Economic Law (1993-1997) (Government Gazette, vol. B', no 446, 22.6.1993, no 634, 18.7.1995) Regular member of the Central Legislative Drafting Committee, (2 year mandate, Government Gazette, vol. B, no 849, 11.11.1993) Submission of resignation on 20.5.1994 (Government Gazette, vol. B., no 528, 7.7.1994) Member of the permanent legislative drafting committee at the Ministry of Justice (Government Gazette, vol. B, no 498, 25.6.1996)	Minister of the Interior at the Grivas caretaker Government (12.10.1989-23.11.1989) (G.G. Vol. A, no 233/12.10.1989) - Member of the Governing Board of the University of Crete (1983-1987) Member of the Scientific Council of the Hellenic Centre for European Studies (EKEM) (1989-1991) Source: EKEM, available at: http://www.ekem.gr/~a- , date of access: 7.3.2011 Minister of Internal Affairs, Public Administration and Decentralization at the Simitis' Caretaker Government (before the national elections of 1996) (G.G. Vol. A, no 215/30.08.1996)	Director of the Centre for International and European Economic Law (three year mandate) (G.G. vol. B, no 812, 9.9.1997) President of the Management Board of the Centre for International and European Economic Law (1997-2001) (Government Gazette, vol. B', no 922, 17.10.1997, Government Gazette, vol. B', no 1867, 11.10.1999) Member of the Working Group constituted at the Ministry of National Education and Religious Affairs regarding the reformation of the current legal framework on the Post-graduate studies and the Research Institutes of Higher Education (Government Gazette, vol. B, no 965, 29.10.1997) Member of the Scientific Committee of the Ministry of Foreign Affairs (1997-1999)

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8	V. S.	(U8)							<p>Member of the permanent legislative drafting committee at the Ministry of Justice (Government Gazette, vol. B, no 79, 7.2.1997)</p> <p>- Extraordinary member of the permanent legislative drafting committee at the Ministry of Justice (Government Gazette, vol. B, no 133, 18.2.1998)</p> <p>- President of the Economic and Social Committee Three year mandate (Government Gazette, vol. B', no 331, 7.4.1998)</p> <p>Submission of resignation on 11.5.1999 (Government Gazette, vol. B, no 978/27.5.1999)</p> <p>- Nominated as member of the European Court of Justice by the Greek Government. Judge at the Court of Justice since June 8, 1999. President of the Court since October 7, 2003. His mandate was renewed in 2006 and 2009.</p> <p>- President of the Management Board of the Centre for International and European Economic Law (two year mandate, Government Gazette, vol. Y.O.D.D., no 158, 17.03.2007)</p>

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9	V. A. (CS9)	Government Gazette vol. C, no 69, 26.4.1994 Councillor His mandate was renewed (article 7 of the law 2527/1997, Government Gazette, vol. C, no 99, 25.4.2000) New appointment after the constitutional revision of 2001 Government Gazette vol. B, no 486, 21.4.2003 Vice-President (2 year mandate)	Submission of resignation from the post in 2004 (Government Gazette vol. B, no 849, 9.6.2004)			General Director at the Ministry of the Presidency of the Government. He simultaneously kept his main position until April 25, 1999 according to law 2503/1997 (Government Gazette, vol. C, no 109, 2.6.1997)	Member of the Committee for the elaboration of the New Code of the Civil Servants (Government Gazette, vol. B, no 358, 13.5.1994) Member of the Committee constituted by the Ministry of Transport and Communications in order to study the legislation in force regarding the organization and operation of the Civil Aviation Authority and submit a specific proposal for its reform (Government Gazette, vol. B, no 550, 7.7.1997) Member of the Committee of the First Programme of Administrative Modernisation (1992-1995): Greek Administration 2000 (Ministerial Decision Δ1ΑΚ/Φ.2/19280/8,7,1992) Source: Makrydimitris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Member of the Project Management Group constituted at the Ministry of the Interior regarding the elaboration of the draft laws under the jurisdiction of the Ministry of the Interior, Public Administration, and Decentralisation (Government Gazette, vol. B, no 293, 8.3.2002)	Member of the Working Group constituted at the Centre of Planning and Economic Research (KEPE) within the framework of the elaboration of the Five Year Programme of Economic and Social Development 1988-1992 on the study of issues related to Public Administration (no 3617/27.4.1987 Joint Ministerial Decision of the Ministers of National Economy and the Presidency of the Government and Interior) Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Member of the Committee for the elaboration of the draft Code of the Civil Servants (Government Gazette, vol. B, no 334, 22.5.1992) Member of the Central Examination Committee of the National School of Public Administration for the 7th, 8th, 10th and the 9th (extraordinary) entrance competitions representing the Minister of the Presidency of the Government (Government Gazette, vol. B, no 278, 20.4.1992, no 417, 9.6.1993)	Revocable General Secretary of the General Secretariat of Public Administration and Electronic Governance of the Ministry of Internal Affairs, Public Administration, and Decentralisation (Government Gazette, vol. C, no 74, 17.03.2004) Submission of resignation from the position (Government Gazette, vol. C, no 509, 4.12.2009) President of the Central Committee for the Simplification of Procedures constituted at the Ministry of the Interior (Government Gazette, vol. B, no 1431, 17.9.2004) President of the Council for the e-Government Forum (Government Gazette, vol. B, no 196, 15.2.2007) Member of the Committee for the Legislative Policy and Regulatory Impact Assessment (Government Gazette, vol. B, no 373, 16.3.2007)

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10	E. V. (CS10)	Government Gazette vol. C, no 69, 26.4.1994 Councillor His mandate was renewed (article 7 of the law 2527/1997, Government Gazette, vol. C, no 99, 25.4.2000) New appointment after the constitutional revision of 2001 Government Gazette vol. B, no 486, 21.4.2003) Councillor (4 year mandate)	New appointment after the constitutional revision of 2001 End of mandate (Government Gazette, vol. YODD, no 394, no 14.09.2007)	Ex-Director at the Ministry of the Interior			Member of the Scientific Committee at the Ministry of Internal Affairs regarding the elaboration of chart models for the Prefectural Self-Administrations and internal regulations for the Prefectural Councils (Government Gazette, vol. B', no 867, 23.11.1994) Member of the Working Group on issues related to the local authorities (Government Gazette, vol. B', no 592, 1.8.1994) Member of the Working Group constituted at the Ministry of the Interior in order to prepare and assist the operation of the new institutions provided for under the provisions of the law 2218/1994 (prefectural self-administration), study the problems encountered, and recommend to the interministerial committee of par. 5 of article 58 of the said law all the necessary measures in order to address these problems: 1996-1998 (Government Gazette, vol. B, no 1015, 8.11.1996, no 541, 1.6.1998) Member of the Project Management Group constituted at the Ministry of the Interior regarding the elaboration of the draft laws under the jurisdiction of the Ministry of the Interior, Public Administration, and Decentralisation (Government Gazette, vol. B, no 293, 8.3.2002)	Special Advisor at the Political Office of the Minister of the Interior. Submission of resignation from the position (Government Gazette, vol. C, no 93, 9.6.1994)	

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11	E. S. (CS11)	Government Gazette, vol. C, no 85, 25.5.1994) Councillor His mandate was renewed (article 7 of the law 2527/1997, Government Gazette, vol. C, no 99, 25.4.2000) New appointment after the constitutional revision of 2001 Government Gazette, vol. B, no 486, 21.4.2003 Councillor (2 year mandate)	Expiration of the mandate, not renewed (Government Gazette, vol. C, no 209, 7.8.2006)	General Director at the Ministry of Environment, Physical Planning, and Public Works		General Director at the Ministry of Environment, Physical Planning, and Public Works	Member of the Central Council of Spatial Planning, Settlement, and Environment constituted by the Ministry of the Environment, Spatial Planning, and Public Works 1992-1995 (Government Gazette, vol. B, no 31, 24.1.1992, no 3, 7.1.1994) Member of the Special Legislative Drafting Committee constituted by the Ministry of Environment, Spatial Planning, and Public Works (Government Gazette, vol. B', no 109, 18.2.1994)		
12	A. M. (J12)	Government Gazette, vol. C, no 224, 10.10.1995 He was elected to fill the vacant post of the defunct J4 Councillor	Retired on 31.12.1997, (Source, Annual Report for the year 2004 and review of the decade 1994-2004	Honorary Vice-President of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)				President of the Revisionary Council for the Property of Forests (Government Gazette, vol. B', no 563, 15.9.1992) - Regular Member of the Supreme Disciplinary Council of article 91 of the Constitution for the year 1992 (Government Gazette, vol. B, no 703, 27.11.1992) - Alternate member of the Supreme Disciplinary Council for the year 1993 (Government Gazette, vol. B, no 144, 11.3.1993) - Alternate President of the Committee of article 4 of the legislative decree 76/1974 on the restoration of civil servants sacked or forced to resign during the dictatorship of the colonels (1967-1974). He was replaced in 1993 (Government Gazette, vol. B, no 134, 5.3.1993)	

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13 I. N. (J13)		Government Gazette vol. C, no 64, 22.03.1996 He was unanimously elected to fill the vacant post of Councillor after the election of J3 to the post of Vice-President (1/1996 decision of ASEP in Plenum, Annual Reports of ASEP for the years 1994-2000) Councillor	Retired due to age limit (Government Gazette, vol. C, no 236, 15.12.1998)	Honorary General Commissioner of the Administrative Courts					
14 D. K. (J14)		Government Gazette vol. C, no 64, 22.03.1996 Councillor	Retired due to age limit (Government Gazette, vol. C, no 236, 15.12.1998)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)					
15 N. K. (J15)		Government Gazette vol. C, no 20, 9.02.1998 Councillor He was elected Vice-President to fill a vacant post of Councillor after the retirement of J3 (Government Gazette vol. C, no 353, 27.12.2000) Vice-President New appointment after the constitutional revision of 2001 Government Gazette, vol. B, no 486, 21.4.2003) Vice-President (4 year mandate)	Expiration of mandate, not renewed (Government Gazette, vol. YODD, no 279, 30.6.2008)	Honorary Vice-President of the Hellenic Supreme Court of Civil and Penal Law			Member of the permanent Legislative Drafting Committee at the Ministry of Justice (1998-1999) (Government Gazette vol. B, no 133, 18.2.1998, Government Gazette vol. B, no 2101, 1.12.1999)	Alternate Member of the Supreme Disciplinary Council of article 91 of the Constitution (Government Gazette, vol. B, no 132, 25.23.1994) Extraordinary Member of the permanent Legislative Drafting Committee at the Ministry of Justice (Government Gazette vol. B, no 686, 8.8.1997) Member of the Special Legislative Drafting Committee for the study of the issue of usury (Government Gazette vol. B, no 15.9.1997)	
16 P.G.(LC16)		Government Gazette vol. C, no 20, 9.02.1998 Councillor	Submission of resignation on 2.12.1998 (Government Gazette, vol. C, no 10, 25.1.1999)			Vice-President of the Legal Council of the State			

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17	V. S. (CS17)	Government Gazette vol. C, no 20, 9.02.1998 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Director General of the Ministry of Internal Affairs, Public Administration, and Decentralisation				Alternate Member of the Management Board of the Organisation for the Administration of Public Material (ODDY) (Government Gazette, vol. B', no 927, 23.12.1993) Member of the Committee for the elaboration of the New Code of Civil Servants (Government Gazette, vol. B', no 358, 13.5.1994) Award of praise for her devotion and contribution during the elaboration of the draft law on the establishment of the Supreme Council for the Selection of Personnel by the Ministry of the Presidency of the Government in 1994 (Government Gazette, vol. B', no 480, 24.6.1994).	Member of the Working Group for the elaboration of a Plan for the Organisation of the General Secretariat of Tourism and the Greek National Tourism Organisation (Government Gazette, vol. B, no 1673, 13.11.2003)

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18 A. D. (CS18)		Government Gazette vol. C, no 20, 9.02.1998 Councillor New appointment after the constitutional revision of 2001 Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate) Her mandate was renewed (four year mandate, Government Gazette, vol. B, no 953, 19.7.2006)	End of mandate, not renewed (Government Gazette, vol. YODD, no 55, 8.3.2011)			General Director of the Secretariat of ASEPShe retired from the service on 11.6.2003 and was honourably awarded the title of the grade and the post of the General Director of ASEP (Government Gazette, vol. C, no 135, 17.6.2003) She simultaneously kept her main position, as General Director of ASEP, until February 13, 2003 (Government Gazette, vol. C, no 353, 27.12.2000)			

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19 N. P. (J19)		Government Gazette vol. C, no 236, 15.12.1998 Councillor	Retired on 31.12.2000 (Source, Annual Report for the year 2004 and review for the decade 1994-2004, Government Gazette, vol. B, no 1653, 29.11.2005, p. 22670)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagititis)				Member of the Supreme Special Court of article 100 of the Constitution for the period 1994-1995 (Government Gazette, vol. B, no 35, 21.1.1994) Member of the Court for Mistrial for the year 1997 pursuant to article 99 of the Constitution and law 693/1977 (Government Gazette, vol. B, no 123, 26.2.1997) Member of the Hellenic Competition Commission (Government Gazette, vol. B, no 40, 27.1.1998) Submission of resignation on 7.12.1998 (Government Gazette, vol. B, no 978, 27.5.1999)	Alternate member of the Supreme Disciplinary Council of article 91 of the Constitution for the year 1997 (Government Gazette, vol. B, no 128, 27.2.1997)
20 N. T. (J20)		Government Gazette vol. C, no 236, 15.12.1998 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagititis)					
21 A. G. (U21)		Government Gazette vol. C, no 236, 15.12.1998 Councillor	Retired on 31.12.2000 (Source, Annual Report for the year 2004 and review for the decade 1994-2004, Government Gazette, vol. B, no 1653, 29.11.2005, p. 22670)	Professor Emeritus at the School of Law of the Aristotle University of Thessaloniki (Commercial Law)			Member of the Committee for the Study on the improvement of the legislation on National Endowments (16.3.1999-31.12.1999) Government Gazette, vol. B', no 228, 16.3.1999		
22 D. P. (J22)		Government Gazette vol. C, no 64, 19.03.1999 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagititis)					

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23 A. B. (J23)		Government Gazette vol. C, no 247, 10.12.1999 Councillor New appointment after the constitutional revision of 2001 Government Gazette vol. B, no 486, 21.4.2003 Councillor ((2 year mandate) Government Gazette vol. B, no 849, 9.6.2004 He was appointed Vice-President after the resignation of CS29 (Government Gazette vol. B, no 849, 9.6.2004) His mandate was renewed (four year mandate, Government Gazette, vol. B, no 953, 19.7.2006)	Submission of resignation (due to the Expiration of the mandate), (Government Gazette, vol. YODD, no 231, 1.7.2010, Government Gazette, vol. YODD, no 255, 27.7.2010)					Regular Member of the Special Supreme Court of article 100 of the Constitution for the years 1993 and 1995 (Government Gazette, vol. B, no 84, 12.2.1992, no 982, 29.11.1995) Second alternate member of the Supreme Disciplinary Council for the year 1993 (Government Gazette, vol. B, no 886, 6.12.1993) Member of the permanent Legislative Drafting Committee at the Ministry of Justice (Government Gazette vol. B, no 116, 5.3.1993) President of the Hellenic Copyright Organisation (Government Gazette, vol. B', no 1456, 14.7.1999) Submission of resignation from the post (Government Gazette, vol. B', no 2172, 17.12.1999)	

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24	G. B. (J24)	Government Gazette vol. C, no 247, 10.12.1999 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)				Member of the Supreme Disciplinary Council pursuant to article 91 of the Constitution for the year 1997 (Government Gazette, vol. B, no 128, 27.2.1997) Alternate member of the Supreme Special Court for the two-year period 1998-1999 (Government Gazette, vol. B, no 170, 25.2.1998). He was substituted due to his retirement (pension) in 1999 (Government Gazette, vol. B, no 1855, 6.10.1999)	
25	A. K. (J25)	Government Gazette vol. C, no 247, 10.12.1999 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)				Alternate Member of the Administrative Committee on Military Requisitions of the Capital of the State (Government Gazette vol. B, no 303, 16.4.1997) Member of the Administrative Committee on Aviation Requisitions of the Capital of the State (Government Gazette vol. B, no 549, 4.7.1997)	
26	A. P. (J26)	Government Gazette vol. C, no 247, 10.12.1999 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary President of the Court of Appeal					

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27	D. G. (EUF27)	Government Gazette vol. C, no 247, 10.12.1999 Councillor New appointment after the constitutional revision of 2001 Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate) Reappointed in 2011 Councillor (4 year mandate) (Government Gazette, vol. YODD, no 55, 8.3.2011)	Expiration of the mandate, not renewed (Government Gazette, vol. C, no 209, 7.8.2006)	Ex-Judge of the Court of Appeals Since January 16, 1983, Permanent Employee at the Commission of the European Union – Legal Adviser* , Grade A3 post (Source: 61998A0086 Judgement of the Court of First Instance (Second Chamber) of January 26, 2000, Dimitrios Gouloussis v Commission of the European Communities, Officials, Promotions-Grade A 2 post-Action for Annulment, Case T-86/98 Source: EUR-Lex , available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61998A0086:EL:HTML , date of access: 29.11.2010					Vice-President of the Health Procurement Committee Two-year mandate (Government Gazette, vol. YODD, no 103, 22.3.2010) Submission of resignation on 17.9.2010 (Government Gazette, vol. YODD, no 330, 11.10.2010)

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28	A. C. (CS28)	Government Gazette vol. C, no 247, 10.12.1999 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary General Director of the Ministry of Labour				Alternate President of the National Council for Vocational Training and Employment (two-year mandate) (Government Gazette, vol. B, no 906, 7.12.1994) Member of the Management Board of the Organisation for Mediation and Arbitration (Government Gazette, vol. B', no 910, 8.12.1994) Member of the Supreme Labour Council (department of gender equality) 1995 and 1997 (Government Gazette, vol. B', no 723 , 23.8.1995, vol. B', no 562, 10.7.1997) Member of the Committee for directing the work of the New Structural Employment Policy (Government Gazette, vol. B', no 329, 13.5.1996)	
29	V. M. (CS29)	Government Gazette vol. C, no 247, 10.12.1999 Councillor New appointment after the constitutional revision of 2001 (Government Gazette, vol. YODD, no 137, 2.4.2007) He was appointed to the vacant post of J47 for the rest of his mandate The mandate was renewed Government Gazette vol. YODD, no 238, 30.5.2008 Councillor (4 year mandate)		Ex Director General of the Secretariat of the Court of First Instance of Athens					

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30	K. S. (CS30)	Government Gazette vol. C, no 247, 10.12.1999 Councillor (full mandate of six years) New appointment after the constitutional revision of 2001 (Government Gazette vol. B, no 486, 21.4.2003) Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)				Special Scientist (Expert) at the Ministry of Internal Affairs, Public Administration and, Decentralisation Suspension of duties from the Ministry pursuant to article 20 of law 2738/1999	Member of the Management Board of the Public Benefit Foundation "Kalogeropouleio Foundation-Museum Sakellariou" (Government Gazette, vol. B, no 1247, 11.12.1998)	Collaborator of the Committee of the First Programme of Administrative Modernisation (1992-1995): Greek Administration 2000 (Ministerial Decision Δ1/ΑΚ/Φ, 2/19280/8,7,1992) Source: Makrydimitris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Special Rapporteur of the Committee for the elaboration of the New Code of Civil Servants (Government Gazette, vol. B', no 358, 13.5.1994)	
31	I. T. (J31)	Government Gazette vol. C, no 11, 18.1.2001 Councillor	End of mandate (Government Gazette, vol. C, no 100, 2.5.2003)	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)				Alternate member of the Supreme Disciplinary Council of the Lawyers for the year 1994 (Government Gazette, vol. B, no 170, 17.3.1994)	
32	F. B. (J32)	Government Gazette vol. C, no 11, 18.1.2001 Councillor New appointment after the constitutional revision of 2001 (Government Gazette vol. B, no 486, 21.4.2003) Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate) Appointed Vice-President for the rest of his mandate (Government Gazette, vol. YODD, no 8.3.2011)		Honorary Councillor of the Court of Audit. He retired from the service in the year 2000 (pension) (Government Gazette, vol. C, no 208, 19.7.2000)				Member of the Special Court of Mistrial for the year 1999 (Government Gazette, vol. B, no 189, 5.3.1999)	

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33	R. A. (LC33)	Government Gazette vol. C, no 11, 18.1.2001 Councillor New appointment after the constitutional revision of 2001 Government Gazette vol. C, no 220, 17.9.2003 Councillor (4 year mandate)	Expiration of mandate (not renewed) (Government Gazette, vol. YODD, no 279, 30.6.2008)	Ex Vice-President of the Legal Council of State Retired from service on November 29, 2000 (Government Gazette vol. C, no 340, 12.12.2000) Ex-Vice-President of the Legal Council of the State					
34	K. B. (J34)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate)	Expiration of the mandate, not renewed (Government Gazette, vol. C, no 209, 7.8.2006)	Ex-Vice President of the Court of Audit Ex-Councillor of the Council of State					
35	A. P. (J35)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (4 year mandate)	Expiration of the mandate, not renewed (Government Gazette, vol. YODD, no 279, 30.6.2008)	Ex-Councillor of the Council of State					
36	G. F. (J36)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate) His mandate was renewed (four year mandate, Government Gazette, vol. B, no 953, 19.7.2006)	Submission of resignation (due to the expiration of the mandate) (Government Gazette, vol. YODD, no 255, 27.7.2010)	Ex-Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis) Retired from the service in the year 2002 (pension) (Government Gazette, vol. C, no 160, 15.7.2002)					

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37	G. P. (LC37)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)		Ex-Legal Councillor of State He retired from the service in the year 2000 (pension) (Government Gazette, vol. C, no 340, 12.12.2000)				Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydimitris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Regular member of the Central Legislative Drafting Committee. Submission of resignation on 11.3.1992 (Government Gazette, vol. B, no 214, 27.3.1992)	

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38	M. M. (CS38)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate) His mandate was renewed (four year mandate, Government Gazette, vol. B, 19.7.2006)	End of mandate, not renewed (Government Gazette, vol. YODD, no 55, 8.3.2011)	Ex-Director General at the Ministry of Internal Affairs, Public Administration, and Decentralization				Member of the Working Group constituted at the Centre of Planning and Economic Research (KEPE) within the framework of the elaboration of the Five Year Programme of Economic and Social Development 1988-1992 on the study of issues related to Public Administration (no 3617/27.4.1987 Joint Ministerial Decision of the Ministers of National Economy and the Presidency of the Government and Interior) Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Member of the Committee of the First Programme of Administrative Modernisation (1992-1995): Greek Administration 2000 (Ministerial Decision Δ1/Κ/Φ,2/19280/8,7,1992) Source: Makrydimitris A., Michalopoulos, N. (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Member of the Committee for the elaboration of the draft Code for the Civil Servants (Government Gazette, vol. B, no 334, 22.5.1992)	

39 Ioannis Vassilopoulos (CS39)	Government Gazette vol. B, no 486, 21.4.2003		Ex Director General at the Ministry of Internal Affairs, Public Administration, and Decentralisation	Member of the Working Group for the elaboration of a Plan for the Organisation of the General Secretariat of Tourism and the Greek National Tourism Organisation (Government Gazette, vol. B, no 1673, 13.11.2003)	Member of the Management Board of the Organisation for the Administration of Public Material (Government Gazette, vol. B', no 927, 23.12.1993) Member of the Committee of article 39 par. 20 of the law 2218/1994 constituted by the Ministry of the Interior on the study and submission of proposals for the pension regime and health care of the civil servants of the prefectures (Government Gazette, vol. B, no 13, 16.1.1995) Member of the Central Examination Committee of the National School of Public Administration (1994 and 1996) (Government Gazette, vol. B', no 774, 12.10.1994, Government Gazette, vol. B', no 369, 22.5.1996)
	Councillor (4 year mandate)				
	Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008)				
	Councillor (4 year mandate)				
40 Emmanouil Voiklis (J40)	Government Gazette vol. B, no 486, 21.4.2003	Expiration of the mandate, not renewed (Government Gazette, vol. C, no 209, 7.8.2006)	President of the Administrative Courts of Appeals He retired from the service in 2003 (pension) (Government Gazette, vol. C, no 163, 11.7.2003)		Member of the permanent Legislative Drafting Committee at the Ministry of Justice: 1993-1999 (Government Gazette vol. B, no 875, 2.12.1993, G.G. vol. B, 380, 23.5.1994, G. G. vol. B, no 430, 17.5.1995, G. G. vol. B, no 498, 25.6.1996, G. G. vol. B, no 79, 7.2.1997, G.G. vol. B, no 133, 18.2.1998, Government Gazette vol. B, no 2101, : 1.12.1999)
	Councillor (2 year mandate)				

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41	P. L. (CS41)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)		Ex-Assistant Director General attached to the Director General of the Public Power Corporation (Government Gazette, vol. B, no 880, 6.12.1993) Revocation from the post following the decision 63 as of 15.3.1995 of the Management Board of the Public Power Corporation (Government Gazette, vol. B, no 200, 21.3.1995)				President of the Management Board of the Athens-Piraeus Electric Railways S.A. and General Director of its services (Government Gazette, vol. B, no 980, 28.11.1995) Submission of resignation from the post of General Director (Government Gazette, vol. B, no 651, 1.8.1997) Member of the Management Board of the Athens Urban Transport Organisation Five-year mandate (Government Gazette, vol. B, no 642, 30.7.1997) President of the Management Board of the Electric Railways S.A. representing the State (Government Gazette, vol. B, no 1023, 20.11.1997) Submission of resignation on 30.7.2001 (Government Gazette, vol. B, no 1029, 3.8.2001)	
42	V. K. (CS42)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)		Director at the Ministry of Internal Affairs, Public Administration, and Decentralization				Alternate member of the Central Examination Committee of the National School of Public Administration for the 9th (extraordinary), 10th and 11th entrance competitions representing the Minister of the Presidency of the Government (Government Gazette, vol. B, no 417, 9.6.1993, no 369, 22.5.1996)	

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43	V. G.(FP43)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (2 year mandate) His mandate was renewed (four year mandate, Government Gazette, vol. B, no 953, 19.7.2006)	End of mandate, not renewed (Government Gazette, vol. YODD, no 55, 8.3.2011)	Lawyer	Trade-Unionist He ran for Councillor with the left-wing faction "Democratic Fighting Rally-Fighting Lawyers" (supported by the Greek Communist Party) in the elections of the Athens Bar Association in 2002. Source: Newspaper Rizospastis, issue of February 24, 2002, available at: http://www2.rizospastis.gr/story.do?id=1160857&publDate=24/2/2002 , date of access: 1.3.2011			Member of the Disciplinary Councils of the Athens Bar Association (Government Gazette, vol. B, no 288, 31.12.2002)	
44	N. K. (FP44)	Government Gazette vol. B, no 486, 21.4.2003 Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)		Lawyer					

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45	K. T. (J45)	Government Gazette vol. C, no 220, 17.9.2003 Councillor (2 year mandate)	Expiration of the mandate, not renewed (Government Gazette, vol. C, no 209, 7.8.2006)	Ex-Vice-President of the Court of Audit				Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydimitris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Member of the Central Examination Committee of the National School of Public Administration for the 7th entrance competition (Government Gazette, vol. B, no 278, 20.4.1992) Member of the Committee for the elaboration of the draft Code of the Civil Servants (Government Gazette, vol. B, no 334, 22.5.1992) Alternate President of the Committee before which will be carried out written and oral exams of the candidates Chartered Accountants (Government Gazette, vol. B, no 17, 22.1.1993) Alternate member of the Supreme Disciplinary Council under the article 91 of the Constitution for the year 1996 (Government Gazette, vol. B, no 90, 13.2.1996)	

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46	D. B. (J46)	Government Gazette vol. C, no 220, 17.9.2003 Councillor (4 year mandate) Reappointed in 2008 (Government Gazette vol. YODD, no 238, 30.5.2008) Councillor (4 year mandate)	Submission of resignation (Government Gazette, vol. YODD, no 231, 1.7.2010)	Ex-President of the Administrative Courts of Appeals					
47	V. K.(J47)	Government Gazette vol. B, no 849, 9.6.2004	Submission of resignation (Government Gazette, vol. YODD, no 137, 2.4.2007)	Ex-President of the Administrative Court of Appeals of Athens (Submission of resignation for pension, Government Gazette vol. C, no 161, 11.06.2004)				Alternate member of the Central Examination Committee of the National School of Public Administration for the 11th entrance competition (Government Gazette, vol. B, no 369, 22.5.1996)	
48	G. K. (U48)	Government Gazette vol. B, no 953, 19.7.2006 Councillor (4 year mandate) Reappointed in 2011 Councillor (4 year mandate) (Government Gazette, vol. YODD, no 55, 8.3.2011)		Professor Emeritus at the National Technical University of Athens (School of Mechanical Engineering) He retired from the service in 2005 (pension) (Government Gazette, vol. NPDD, no 90, 22.4.2005)					
49	N. Y. (J49)	Government Gazette vol. B, no 953, 19.7.2006 Councillor (4 year mandate) Reappointed in 2011 Councillor (4 year mandate) (Government Gazette, vol. YODD, no 55, 8.3.2011)		Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law				Member of the Supreme Council for the Sports Dispute Resolution (1992-1993) (Government Gazette, vol. B', no 500, 4.8.1992, Government Gazette, vol. B', no 621, 13.8.1993).	

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50	Emmanouil Vassilakis (J50)	Government Gazette vol. B, no 953, 19.7.2006 Councillor (4 year mandate) Reappointed in 2011 Councillor (4 year mandate) (Government Gazette, vol. YODD, no 55, 8.3.2011)		Honorary President of the Administrative Court of Appeals				Regular member of the Administrative Committee on Military Requisitions of the Prefecture of the island of Chios: 1992-1995 (Government Gazette, vol. B, no 227, 3.4.1992, no 508, 9.7.1993, no 485, 28.6.1994, no 223, 28.3.1995)	
51	C. B.(CS51)	Government Gazette vol. B, no 953, 19.7.2006 Councillor (4 year mandate) Reappointed in 2011 Councillor (4 year mandate) (Government Gazette, vol. YODD, no 55, 8.3.2011)		Ex-General Director at the Ministry of Internal Affairs, Public Administration, and Decentralization				Member of the Coordinating Committee for the negotiations regarding the Community Support Framework (1994-1997) (Government Gazette, vol. B, no 628, 22.10.1992) Member of the Management Board of the Fund of Deposits and Loans (Government Gazette, vol. B, no 927, 23.12.1993) Member of the Monitoring and Management Committee of the five-year Development Cooperation Plan 1997-2001 (Government Gazette, vol. B, no 972, 11.9.1998) Member of the Administrative Board of the public S.A. "Themis Construction". Founded by law 2408/1996, operating in the public interest regarding the repair, design, expansion, construction, equipment and organization of the Judiciary Buildings (Government Gazette, vol. B, no 528, 26.03.2004) Submission of resignation (Government Gazette, vol. YODD, no 33, 6.10.2006)	

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52	E. B. (CS52)	Government Gazette, vol. B, no 953, 19.7.2006 Councillor (4 year mandate)	Resigned after her appointment as Revocable General Secretary of the General Secretariat of Public Administration and Electronic Governance of the Ministry of Internal Affairs, Decentralisation and Electronic Governance (Government Gazette, vol. Y.O.D.D, no 509, 4.12.2009). She resigned from ASEP according to the Annual Report for the year 2009 (Government Gazette, vol. B', no 1096, 21.07.2010,p. 15223). However, the resignation was not published in the Government Gazette.			Ex-General Director at the Ministry of Internal Affairs, Public Administration, and Decentralization Resigned from the post (Government Gazette, vol. C, no 119, 16.05.2005) Suspension of duties from the Ministry pursuant to article 3, par. 5 of law 3051/2002		Award of praise for her devotion and contribution during the elaboration of the draft law on the establishment of the Supreme Council for the Selection of Personnel by the Ministry of the Presidency of the Government in 1994 (Government Gazette, vol. B', no 480, 24.6.1994) Special Rapporteur of the Committee for the elaboration of the New Code of the Civil Servants (Government Gazette, vol. B', no 358, 13.5.1994) Member of the Supreme Labour Council (department for the wages and working conditions in the public sector (1994-1995, and 1997) (Government Gazette, vol. B', no 132, 25.2.1994, Government Gazette, vol. B', no 723 , 23.8.1995, Government Gazette, vol. B', no 562, 10.7.1997).	Revocable General Secretary of the General Secretariat of Public Administration and Electronic Governance of the Ministry of Internal Affairs, Decentralisation and Electronic Governance (Government Gazette, vol. Y.O.D.D, no 509, 4.12.2009). She resigned from ASEP according to the Annual Report for the year 2009 (Government Gazette, vol. B', no 1096, 21.07.2010,p. 15223). However, no official resignation was published in the Government Gazette.

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52	E. B.	(CS52)						<p>Member of the Project Management Group to work on proposals for the modernization of the civil servants' payroll (Government Gazette, vol. B, no 760, 15.6.2001)</p> <p>Member of the National Council for the Policy on Food Control (Government Gazette, vol. B, no 1281, 4.10.2001)</p> <p>Member of the Group of Experts constituted by the Ministry of the Interior in order to study and put forward a concrete proposal for a new system of remunerations for the regular civil servants which, due to its structure, will provide incentives for the increase of the civil servants' efficiency and facilitate attracting capable executives in the public sector (Government Gazette, vol. B, no 1345, 17.10.2001)</p> <p>Member of the Monitoring Committee of the Programme "Polity" (Politeia) constituted at the Ministry of the Interior (Government Gazette, vol. B, no 192, 20.2.2002)</p>	

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52	E. B.	(CS52)						<p>Member of the Project Management Group constituted by the Ministry of the Interior regarding the elaboration of the draft laws under the jurisdiction of the Ministry of the Interior, Public Administration, and Decentralisation (Government Gazette, vol. B, no 293, 8.3.2002)</p> <p>Member of the Working Group for the elaboration of a Plan for the Organisation of the General Secretariat of Tourism and the Greek National Tourism Organisation (Government Gazette, vol. B, no 1673, 13.11.2003)</p> <p>Member of the Committee of article 14 par. 1 of the law 3242/2004 for the review of the provisions of the Code of Civil Servants (Government Gazette, vol. B, no 1292, 23.8.2004)</p>	

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53	D. S. (J53)	Government Gazette vol. YODD, no 238, 30.5.2008 Vice-President (4 year mandate)		Ex Vice-President of the Hellenic Supreme Court of Civil and Penal Law. Retirement from the service in 2006 (Government Gazette, vol. no C, no 192, 20.7.2006)				Member of the Working Group for the study and recommendation on the amendments regarding the constitution and operation of the supreme councils for the judges and judicial employees provided for under the articles 90 and 92 of the Constitution and the harmonization of the legislation with the revised constitution of 2001 (Government Gazette, vol. B, no 920, 18.7.2001) Alternate member of the Supreme Disciplinary Council of Lawyers for the year 2003 (Government Gazette, vol. B, no 144, 11.2.2003) Ex Officio Member of the National Committee for Human Rights representing the Hellenic Supreme Court of Civil and Penal Law upon proposal of the President of the Court (Government Gazette vol. B', no 1833, 1.10.1999)	
54	L. L. (J54)	Government Gazette vol. YODD, no 238, 30.5.2008 Councillor (4 year mandate)		Former /Ex Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)				Alternate Vice-President of the Permanent Expert Committee operating at the General Directorate for Public Procurement of the General Secretariat of Commerce (Ministry of Development) (October-December 2004) Source: Ministry of Development, available at: http://www.ypan.gr/c_annou nce/45_1381 cms.htm , date of access: 13.3.2010	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
55	P. A. (CS55)	Government Gazette vol. YODD, no 238, 30.5.2008 Councillor (4 year mandate)		Ex Director at the General Accounting Office			Member of the Administrative Board of the Operator of the National Gas System S.A. (DESFA) Government Gazette vol. YODD, no 245, 6.6.2008	Member of the Administrative Board of the Hellenic Aerospace Industry S.A. (Government Gazette, vol. A.E., no 5529/10.06.2004) Member of the Administrative Board of the Public Power Corporation S.A. (Government Gazette, vol. A.E., no 83/5.1.2005)	
56	K. L. (FP56)	Government Gazette vol. YODD, no 238, 30.5.2008 Councillor (4 year mandate)		Economist, specialised in management	Party affiliation Member of the Committee for the procurement of goods of relevant financial or technological value of the Organisation of Greek Railways (O.S.E) proposed by the political party of the Popular Orthodox Rally as its representative (Government Gazette, vol. YODD, no 11, 15.1.2008) In the National Elections of 2007 he ran as parliamentary candidate of the said party at the second constituency of Athens (Source, Newspaper Eleftherotypia, 29.8.2007, available at: http://archive.enet.gr/online_text/c=112,dt=29.08.2007,id=45730280 , date of access: 13.3.2010)		Member of the Committee for the procurement of goods of relevant financial or technological value of the Organisation of Greek Railways (O.S.E) proposed by the political party of the Popular Orthodox Rally as its representative (Government Gazette, vol. YODD, no 11, 15.1.2008)		

APPENDIX 2

Career Paths of the Members of the Hellenic Data Protection Authority

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
1	K. D. (J1)	Government Gazette vol. C, no 163, 8.8.1997 President (full-time occupation) 4 year mandate	Submission of resignation on 16.12.2002 due to his appointment to the post of Inspector General of Public Administration (Government Gazette, vol. C, no 288, 27.12.2002)	Vice-President of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)		Under suspension from judicial duties		Member of the Supreme Special Court of the article 100 of the Constitution and the Law 345/1976 for the period 1992-1993 (Government Gazette, vol. B, no 84, 12.2.1992) Member of the Committee of article 4 of the legislative decree 76/1974 on the restoration of civil servants sacked or forced to resign during the dictatorship of the colonels (1967-1974). He was substituted in 1992. (Government Gazette, vol. B, no 558, 10.9.1992) Member of the Supreme Disciplinary Council for the years 1993-1994 (Government Gazette, vol. B, no 144, 11.3.1993,vol. B, no 132, 25.2.1994) Member of the Legislative drafting committee for the elaboration of draft provisions on the criminal treatment of drug addicts who have undergone treatment for addiction (Government Gazette vol. C, no 598, 17.7.1995) Member of the permanent Legislative drafting committee of the Ministry of Justice (Government Gazette vol. C, no 572, 29.6.1995)	Inspector General of Public Administration (Government Gazette vol. C, no 289, 27.12.2002) Appointment of the new Inspector General of Public Administration (Government Gazette vol. C, no 239, 14.9.2004)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
2	G. D. (J2)	Government Gazette vol. C, no 163, 8.8.1997 Alternate President (part-time occupation) 4 year mandate New appointment after the Constitutional Revision of 2001 Government Gazette vol. C, no 30, 13.2.2003 Alternate President 4 year mandate	End of mandate New appointment after the Constitutional Revision of 2001 Submission of resignation (Government Gazette, vol. C', no 185, 6.8.2003)			Vice-President of the Council of State. Retirement from the service (pension) in 2001 (Government Gazette, vol. C, no 183, 11.7.2001) Honorary Vice-President of the Council of State	Member of the permanent legislative drafting committee of the Ministry of Justice (Government Gazette, vol. B, no 2303, 31.12.1999) President of the Working Group for the study and the submission of a recommendation on the legislative amendments regarding the procedure of resolving the disputes of judges in relation to issues of earnings and pensions according to the revised paragraph 2 of the article 88 of the Constitution (Government Gazette, vol. B, no 920/18.7.2001)	Member of the Central Legislative drafting committee (1993, 1995) (Government Gazette vol. C, no 849, 11.11.1993, Government Gazette vol. C, no 932, 10.11.1995) Member of the Supreme Special Court for the period 1994-1995 (Government Gazette, vol. B, no 35, 21.1.1994)	Member of the Board for the Management and Reformation of the river Kifisos of Attica and its torrents (Government Gazette vol. B, no 566, 9.5.2003)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
3	M. S.	(U3) Regular Member	Submission of resignation after his appointment to the post of the Minister of Justice (Government Gazette, vol. A, no 122, 13.4.2000) He was replaced by U4. (Government Gazette, vol. C, no 245, 25.8.2000)		NGOs Member of the Management Board of the Centre for European Constitutional Law-Themistokles and Dimitris Tsatsos Foundation (CECL) Three-year mandate (Government Gazette, vol. NPDD, no 104, 14.4.2006) Elected Rector of Athens University (1983-1991).	Professor of Civil Law at the Department of Law, Athens University	President of the Board of the Hellenic Copyright Organisation (3 year mandate) (Government Gazette, vol. B, no 1253, 31.12.1997) Since 1996 member of Management Board of the public benefit foundation "The Giannis Koutsocheras and Lena Strefi-Koutsochera International Foundation" Mandate: 18.7.2005-17.7.2008 (Government Gazette, vol. YODD, no 37, 1.2.2007) Renewal of the mandate until 17.7.2012 (Government Gazette, vol. YODD, no 270, 4.8.2010) Member of the Management Board of the the public benefit foundation "The Nikos and Eleni Kazantzakis Studies Foundation" Five year mandate (Government Gazette, vol.B, no 620, 23.7.1997	Member of the Supreme Disciplinary Council (1994) (Government Gazette vol. B, no 132, 30.12.1994) Member of the Board of the Hellenic Copyright Organisation (3 year mandate) (Government Gazette vol. B, no 983, 30.12.1994) Expert for the Development of the Spata Airport (Joint Ministerial Decision Y 409/1994, Government Gazette, 861/17.10.1995)	Minister of Justice at the second Simitis Government (2000-2001) (Government Gazette, vol. A, no 122, 13.4.2000) Substitution: Government Gazette vol. A, no 254, 24.10.2001 Professor Emeritus (Athens University) Member of the Management Board of the public benefit foundation "The Angelos and Leto Katakouzenos Foundation" 2001-2009 (Government Gazette, vol. B, no 1295, 8.10.2001) Replacement (Government Gazette, vol. YODD, no 541, 30.12.2009) Member of the Management Board of the National Museum of Contemporary Art End of mandate: 30.11.2010 (Government Gazette, vol. YODD, no 119, 6.4.2010) Member of the Management Board of the National Transplant Organisation End of mandate: 30.12.2011 (Government Gazette, vol. YODD, no 136, 20.4.2010)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
3	M. S.	(U3)					<p>Alternate member of the Council for the Selection of School Councillors (secondary education). End of mandate: 31.12.1998 (Government Gazette, vol. B, no 40, 27.01.1998)</p> <p>Member of the Committee for the study of the problems of religious freedom (Government Gazette, vol. B', no 1316, 24.6.1999)</p> <p>Ex officio Member of the National Committee for Human Rights representing the Hellenic Data Protection Authority (Government Gazette, vol. B', no 1833, 1.10.1999)</p> <p>Member of the Committee constituted by the Ministry of Foreign Affairs for the study of the problems of religious freedom within the context of article 9 of the European Convention on Human Rights (Government Gazette, vol. B', no 2214, 23.12.1999)</p>		

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
4	S. L.	(U4)							
		Government Gazette vol. C, no 245, 25.8.2000	End of mandate: G.G. vol. C, no 279, 24.10.2005-Nomination of new members			Professor of Public Law at the Department of Law, Athens University,	Member of the Supreme Disciplinary Council for the year 1999 (Government Gazette vol. B, no 49, 29.1.1999)	Secretary of the Cabinet at the second and third Andreas Papandreou- Pasok Government- (1988-1989 and 1993-1996) (Government Gazette, vol. B', no 947, 30.12.1993)	Member of the Special Court for Mistrial for the year 2006 (Government Gazette, vol. B', no 249, 27.2.2006)
		Alternate Member for the rest of the mandate of M. Stathopoulos				Lawyer, Law Office	Ex Officio Member of the National Committee for Human Rights representing the Hellenic Data Protection Authority (Government Gazette, vol. B', no 1224, 6.10.2000)	Member of the Committee on Institutions (Government Gazette, vol. B', no 940, 19.12.1994)	Member of the Court for the determination of Disputes for the year 2006 (Government Gazette, vol. B', no 249, 27.2.2006)
		He became Regular Member after the resignation of U3. U16 was appointed to the vacant post of the Alternate Member				He was elected alternate President of the Department of Law, Athens University.	Member of the Working Group for the study and proposal of amendments to the legislation on the penal liability of members of the Government (Cabinet) and Secretaries of State (Deputy Ministers) with a view to improve the relevant regulations and their harmonization with article 86 of the revised Constitution (Government Gazette, vol. B', no 290, 18.7.2001)	Member of the Committee for the redaction of the new code of civil servants (Government Gazette, vol. B', no 358, 13.5.1994)	General Secretary of the Government at the Georgios Papandreou Government (Pasok) (2009-2011) and Loukas Papadimos Government (2011-2012) (Government Gazette, vol. A', no 448, 7.10.2009)
		New appointment after the Constitutional Revision of 2001				Mandate: 29.8.2002-31.8.2003, (Government Gazette, vol. NPDD, no 193, 29.8.2002)	Member of the Working Group for the study and proposal of amendments to the legislation on the penal liability of members of the Government (Cabinet) and Secretaries of State (Deputy Ministers) with a view to improve the relevant regulations and their harmonization with article 86 of the revised Constitution (Government Gazette, vol. B', no 290, 18.7.2001)	Member of the Committee on Institutions and Decentralisation (Government Gazette, vol. B', no 873, 20.10.1995)	
		Government Gazette vol. C, no 30, 13.2.2003					Ex officio alternate member of the National Committee for Human Rights representing the Hellenic Data Protection Authority (Government Gazette, vol. B', no 276, 7.3.2003)	Member of the Special Court for Mistrial for the year 1996) (Government Gazette, vol. B', no 252, 11.4.1996)	
		Regular Member						Member of the Joint Supervisory Body of Europol representing Greece (1998-2005)	
		2 year mandate						Source: The Official Website of the General Secretariat of the Government, available at: http://www.ggk.gov.gr/?page_id=5&print=1 , date of access: 29.5.2011	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
4	S. L.	(U4)						Member of the Special Court for Mistrial for the year 2005 (Government Gazette vol. B, no 177, 11.2.2005) Member of the Court for the determination of Disputes for the year 2005 (Government Gazette vol. B, no 177, 11.2.2005) Alternate Judge of the Administrative Tribunal of the Council of Europe, April 9, 2003-March 31, 2006. Source: The Official Website of the Administrative Tribunal of Council of Europe, available at: http://www.coe.int/t/administrativetribunal/WCD/former_mbs_en.asp# , date of access: 29.5.2011.	
5	E. K.	(U5)							
		Government Gazette vol. C, no 184, 3.9.1997 Regular Member	End of mandate: (G.G. vol. C, no 30, 13.2.2003)- Nomination of new members			Professor of Informatics at the Department of Informatics, Athens University of Economics and Business Retirement from the service in 2005 (pension) (Government Gazette, vol. NPDD, no 72, 1.4.2005)			

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
6	P. S. (U6)	Government Gazette vol. C, no 184, 3.9.1997 Alternate Member of U5	End of mandate, (G.G. vol. C, no 30, 13.2.2003) -Nomination of new members			Professor of Informatics at the Department of Computer Engineering and Informatics, University of Patras	Member of the Committee for the conduct of an open tender for the supply of computer equipment (Hardware-Software PCs Local Network) and the development of applications for the implementation of the Integrated Information System of the Customs (Government Gazette, vol. B', no 1119, 18.12.1997) Member of the Scientific Committee of the Institute for Language and Speech Processing (Government Gazette, vol. B', no 18, 21.1.1998)		Member of the Committee for the Monitoring and Receipt of the project for the Computerization of the Criminal Records of the Ministry of Justice (Government Gazette, vol. B', no 1427, 2.10.2003) President of the Council of the Research Academic Computer Technology Institute (Government Gazette, vol. B', no 484, 14.12.2006)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
6	P. S.	(U6)					<p>Member of the Committee for the Research and Organisation of the Archives of the Prime Minister, the members of the Government and Deputy Ministers (Government Gazette, vol. B', no 101 11.2.1998)</p> <p>Member of the Committee for the study of the security mechanisms of the Instant State Lottery (Government Gazette, vol. B', no 330, 16.3.2000)</p> <p>President of the Council of the Research Academic Computer Technology Institute (Government Gazette, vol. B', no 1348, 17.10.2001)</p> <p>Expert Member of the Committee for the Monitoring and Receipt of the study for the Operational Plan and Action Plan of the Ministry of Justice for the integration into the Operational Programme "Information Society" (Government Gazette, vol. B', no 89, 30.1.2002)</p> <p>Member of the Project Management Group of Strategic Planning for the Project Computerization of the Criminal Records of the Ministry of Justice (Government Gazette, vol. B', no 279, 7.3.2002)</p>		
7	N. A.	(U7)	Government Gazette vol. C, no 184, 3.9.1997 Regular Member	End of mandate, G.G. vol. C, no 30, 13.2.2003- Nomination of new members		<p>Professor of Constitutional Law, Athens University,</p> <p>Lawyer, Law Office</p>	<p>Member of the Scientific Council of the National Centre for Social Research (EKKE) (3 year mandate) (Government Gazette, vol. B', no 829, 11.9.1996)</p>	<p>Member of the National Council for Radio and Television</p>	<p>Caretaker Minister of Internal Affairs, Public Administration, and Decentralisation before the national elections of 2004 (Government Gazette, vol. A', no 49, 13.2.2004)</p>

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
7	N. A.	(U7)			<p>Party Affiliation: Member of the Group on Immigration Policy of the party of Pasok upon decision of the President of Pasok, Georgios Papandreou, on the constitution of a group on Immigration Policy, date of publication: 29.6.2009, Source: the Official Website of Pasok,</p> <p>available at: http://www.pasok.gr/portal/resource/contentObject/id/5d943eb5-9c3d-4dfb-80e6-afd5ff2daa10, date of access: 4.5.2010</p> <p>Civil Society-NGOs: - Member of the Management Board of the NGO: Hellenic League for Human Rights (HLHR), Source: Official Website of HLHR, available at: http://www.hlhr.gr/id-el.htm, date of access: 4.5.2010</p>		<p>Member of the permanent legislative drafting committee at the Ministry of Justice (1997-1998) (Government Gazette, vol. B', no 79, 7.2.1997, vol. B', 133, 18.2.1998)</p> <p>Member of the Management Board of the Greek National Committee of UNESCO 1997-1998 (Government Gazette, vol. B', no 862, 29.9.1997 and vol. B', no 402, 29.4.1998)</p> <p>Member of the Supreme Disciplinary Council of article 91 of the Constitution (Government Gazette, vol. B', no 283, 20.3.1998)</p> <p>Member of the Committee for the study of the problems of religious freedom (Government Gazette, vol. B', no 1316, 24.6.1999)</p>	<p>Member of the Management Board of the public benefit foundation "Thesaurus of the Greek Language" (Government Gazette, vol. B, no 150, 10.3.1992)</p> <p>Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydimitris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000)</p> <p>Member of the permanent Legislative drafting committee at the Ministry of Justice (Government Gazette, vol. B', no 430, 17.5.1995)</p> <p>Member of the special legislative drafting committee on the elaboration of the draft law "Protection of personal data" (Government Gazette, vol. B', no 623, 14.7.1995)</p> <p>Member of the Board of the Centre for Educational Research (KEE) (3 year mandate) (Government Gazette, vol. B', no 422, 31.5.1996). Submission of resignation (Government Gazette, vol. B', no 193, 17.3.1997)</p>	

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7	N. A.	(U7)			Member of the NGO: Research Centre for Minority Groups (KEMO), Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 25.12.2010		Member of the Committee for the transfer of the European Convention of Human Rights to the demotic Greek language (1999-2000) (Government Gazette, vol. B', no. 1653, 25.8.1999 and no 237, 1.3.2000) Member of the Committee at the Ministry of Foreign Affairs for the study of the problems of religious freedom within the context of article 9 of the European Convention on Human Rights (Government Gazette, vol. B', no 2214, 23.12.1999) Member of the Working Group for the study and proposal of amendments to the administrative legislation in order to regulate the competence of dispute resolution by the Council of State and the regular administrative courts (Government Gazette, vol. B', no 920, 18.7.2001)	Member of the National Committee for Human Rights appointed by the Prime Minister (Konstantinos Simitis) as prestigious person with expertise in the protection of human rights (Government Gazette, vol. B', no 610, 16.5.2003) Submission of resignation after the election of the Karamanlis government in 2004 (Government Gazette, vol. B', no 312, 24.11.2004) Member of the Working Group for the processing and elaboration of the general principles and the setting of the framework of the draft law on the change of the electoral system of the country (Government Gazette, vol. B', no 491, 19.11.2009) Member of the Working Group constituted by the Ministry of the Interior, Decentralisation, and Electronic Governance on the change of the legal framework regarding the financial issues of the political parties and the provenance of the politicians' assets (Government Gazette, vol. YODD, no 17, 28.1.2011) President of the Management Board of the National Museum of Contemporary Art, three-year mandate (Government Gazette, vol. YODD, no 49, 28.2.2011)	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
8 N. D. (U8)		Government Gazette vol. C, no 184, 3.9.1997 Alternate Member of U7	Submission of resignation after his appointment to the post of the Greek Ombudsman on April 30, 1998 (Government Gazette, vol. C, no 96, 7.5.1999)			Professor of Political Science at the Department of Political Science and Public Administration, Athens University. He retired from the service on August 31, 2009 (Government Gazette, vol. C', no 366, 18.5.2009)		Director of the Hellenic Foundation for European and Foreign Policy (think tank) 1988-1991 Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 193, available at: http://www.synigoros.gr/annual01_en/en_2001.pdf , date of access: 4.3.2011 Member of the Scientific Council of the National Centre for Social Research (EKKE) (3-year mandate) (Government Gazette, vol. B', no 457, 24.6.1993) Member of the National Advisory Board of Research 1994-1998 (Government Gazette, vol. B', no 129, 24.2.1994, vol. B', no 785, 12.9.1995) Director of the National Centre for Social Research (EKKE) 1995-1998 (Government Gazette, vol. B', no 850, 11.10.1995)	The Greek Ombudsman (5 year mandate) (Government Gazette vol. C, no 57, 24.3.1998) Member of the Management Board of the Cultural Foundation of the National Bank of Greece (1999-2005) Publication of the end of his mandate in the Government Gazette (Government Gazette, vol. NPDD, no 90, 4.4.2006) Member of the National Council on Public Administration Reform (2000) Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 193, available at: http://www.synigoros.gr/annual01_en/en_2001.pdf , date of access: 4.3.2011 Ex officio Member of the National Committee for Human Rights representing the Greek Ombudsman (Government Gazette, vol. B', no 1833, 1.10.1999) European Ombudsman (2003) 2003/158/EC, Euratom: Decision of the European Parliament of 15 January 2003

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
8	N. D.	(U8)							<p><u>European Ombudsman (2003)</u> 2003/158/EC, Euratom: Decision of the European Parliament of January 15, 2003 appointing the European Ombudsman OJ L 65, 8.3.2003, p. 26–26, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:065:0026:0026:EN:PDF, date of access: 26.12.2010</p> <p><u>European Ombudsman (2005)</u> Decision of the European Parliament of 11 January 2005 appointing the European Ombudsman (2005/46/EC, Euratom), in Official Journal of the European Union (OJEU). 25.01.2005, No L 21, p. 8, available at: http://eur-lex.europa.eu/Result.do?aaaa=2005&mm=01&jj=25&type=&nnn=&pppp=8&RechType=RECH_reference_pub&Submit=%CE%91%CE%BD%CE%B1%CE%B6%CE%AE%CF%84%CE%B7%CF%83%CE%B7, date of access: 26.12.2010</p> <p><u>European Ombudsman (2010)</u>, European Parliament Decision of 20 January 2010 electing the European Ombudsman, OJ C 305E , 11.11.2010, p. 19–20, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:305E:0019:0020:EN:PDF, date of access: 26.12.2010</p>

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9	A. P. (U9)	Government Gazette vol. C, no 184, 3.9.1997 Regular Member New appointment after the Constitutional Revision of 2001 (Government Gazette vol. C, no 30, 13.2.2003) Regular Member 2 year mandate	End of mandate: G.G. vol. C, no 279, 24.10.2005-Nomination of new members			Professor of Civil Law at the Department of Law, Athens University Lawyer, Law Office	Member of the Central Legislative drafting committee 1998-2004 (Government Gazette, vol. B', no 61, 4.2.1998, vol. B', no 103, 4.2.2000, vol. B', no 1572, 22.12.2000, vol. B', no 782, 21.6.2001). Submission of resignation (Government Gazette, vol. B', no 1042, 9.7.2004) Member of the ad hoc law preparing committee for the law on transplantation Source: The Official Website of the National Bioethics Committee, available at: http://www.bioethics.gr/document.php?category_id=65&document_id=740 , date of access: 26.3.2011 Member of the Greek-National Section of the International Commission on Civil Status (Government Gazette, vol. B', no 357, 2.4.2001)	Member of the Central Legislative drafting committee (1993-1997) (Government Gazette, vol. B', no 849, 11.11.1993 and vol. B', no 932, 10.11.1995, vol. B', no 1035, 24.11.1997) Member of the ad hoc law preparing committee for the law on transplantation Source: The Official Website of the National Bioethics Committee, available at: http://www.bioethics.gr/document.php?category_id=65&document_id=740 , date of access: 26.3.2011 Member of the Greek-National Section of the International Commission on Civil Status (Government Gazette, vol. B', no 81, 26.2.2009)	Member of the National Authority for Medically Assisted Reproduction Four year mandate (G.G.vol. C, no 300, 15.11.2005) Member of the legislative drafting committee on the elaboration of the draft presidential decree regulating the organization and function of the institution of foster families (Government Gazette, vol. B', no 1616, 22.11.2005) Member of the Supreme Disciplinary Council (Government Gazette, vol. B', no 242, 14.2.2008) Member of the ad hoc law preparing committee for the civil pact for unmarried couples Source: The Official Website of the National Bioethics Committee, available at: http://www.bioethics.gr/document.php?category_id=65&document_id=740 , date of access: 26.3.2011 Member of the National Bioethics Committee (Government Gazette, vol. B', no 81, 26.2.2009)

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10	K. K. (U10)	Government Gazette vol. C, no 184, 3.9.1997 Alternate Member of U9	End of mandate, G.G. vol. C, no 30, 13.2.2003- Nomination of new members			Associate Professor of Modern Economic and Social History (Greek and European) at the Department of Political Science and Public Administration, Athens University			Member of the Ephorate of the General State Archives (Government Gazette, vol. YODD', no 373, 17.11.2010)
11	P. P. (FP11)	Government Gazette vol. C, no 184, 3.9.1997 Regular Member He died on May 25, 2002. FP12 was appointed to the vacant post.			NGOs Ex- President of the Greek Section of Amnesty International Source: Government Gazette, vol. B', no 1833, 1.10.1999)	Civil Engineer, Special Expert of the Networks of the European Union against racism	Alternate Member of the Management Board of the European Monitoring Centre on Racism and Xenophobia (Official Journal of the European Communities, C 51/13, 18.2.1998) Member of the National Committee for Human Rights in his capacity as ex President of the Greek Section of Amnesty International. (Government Gazette, vol. B', no 1833, 1.10.1999). He was elected Vice-President of the Committee Source: To Syntagma, Review of Constitutional Theory and Practice, available at: http://tosyntagma.ant-sakkoulas.gr/praxeis/item.php?id=349 , date of access: 19.5.2010		

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12 N. F. (FP12)		Government Gazette vol. C, no 184, 3.9.1997 Alternate Member of FP11 He was appointed Regular Member to the post of the defunct FP11. Agapios Papaneophytou was appointed to the vacant post of FP11. New appointment after the Constitutional Revision of 2001 (Government Gazette vol. C, no 30, 13.2.2003) Regular Member 4 year mandate	Submission of resignation due to the Cameras Case (17.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeos=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011		NGOs Member of the Hellenic League for Human Rights (former President) Source: Law Firm Souriadakis-Frangakis-Skaltsas-Pantelakis, available at: http://sfsplaw.ath.cx/modules.php?name=News&file=article&sid=105 , date of access: 9.12.2010	Lawyer	President of the European Commission against racism and intolerance (ECRI, Strasbourg), Source, Council of Europe, 1997 (two year mandate) http://www.coe.int/t/dghl/monitoring/ecri/archives/ecris_working/ecris_working/annual_reports/Annual_report_1997_EN.asp# , date of access, 20.5.2010 Member of the Committee on the drafting and elaboration of the regulatory Presidential Decrees and Ministerial Decisions provided for under the draft of the Chart of the Ministry of Foreign Affairs (Government Gazette, vol. B', no 9, 19.1.1998)	Head of the Legal Service of the National Delegation of Greece in the European Communities in Brussels (1986-1989) Source: Law Firm Souriadakis-Frangakis-Skaltsas-Pantelakis, available at: http://sfsplaw.ath.cx/modules.php?name=News&file=article&sid=105 , date of access: 9.12.2010	

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12	N. F.	(FP12)					<p>Legal Adviser of PYRKAL (Hellenic Powder and Cartridge Company S.A.) (2000) (Source: Government Gazette, vol. A', no 293, 29.12.2000)</p> <p>Member of the National Committee for Human Rights representing the Hellenic League for Human Rights 1999-2005 (Government Gazette, vol. B, no 1833, 1.10.1999, renewal of mandate: vol. B, no 276, 7.3.2003), end of mandate: vol. B, no 1665, 29.11.2005) He was elected Vice-President of the Committee during his first mandate. Source: To Syntagma, Review of Constitutional Theory and Practice, available at: http://tosyntagma.ant-sakkoulas.gr/praxeis/item.php?id=349, date of access: 19.5.2010</p> <p>Member of the special legislative committee regarding the final elaboration of the draft law of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (Government Gazette, vol. B', no 634, 30.4.2004)</p>		

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12 N. F. (FP12)							<p>Alternate Member of the Board of the European Monitoring Centre on Racism and Xenophobia (Official Journal of the European Communities, C 19/37, 26.1.2006)</p> <p>Member of the National Committee for Human Rights representing the Hellenic Data Protection Authority (Government Gazette vol. B', no 322, 16.3.2006) Replaced in 2008 (Government Gazette, vol. YODD, no 236, 30.5.2008)</p>		
13 V. P. (J13)		Government Gazette vol. C, no 184, 3.9.1997 Regular Member	End of mandate, G.G. vol. C, no 30, 13.2.2003- Nomination of new members	Ex Associate Judge of the Court of Audit					
14 D. G. (U14)		Government Gazette vol. C, no 184, 3.9.1997 Alternate Member of U9	End of mandate, G.G. vol. C, no 30, 13.2.2003- Nomination of new members			Lecturer of Informatics at the Department of Informatics, Athens University of Economics and Business	<p>Member of the Committee for the conduct of an open tender and evaluation of bids for the supply of computer equipment (Hardware-Software PCs Local Network) and the development of applications for the implementation of the Integrated Information System of the Treasury (Government Gazette, vol. B', no 34, 23.1.1998)</p> <p>Member of the Technical Council of the National Technical Athens University (3 year mandate) (Government Gazette, vol. B', no 626, 11.5.2000)</p>	<p>Appointed as an Expert at the Committee on the Integrated Information System at the Ministry of Economics and Finance – General Directorate of Investment and Development (Government Gazette, vol. B', no 1084, 5.8.2003)</p> <p>Member of the Scientific Committee for the submission of a recommendation to the Plenary of the Council of Higher Technological Education (Government Gazette, vol. YODD', no 46, 8.2.2007)</p>	

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14	D. G.	(U14)					Member of the Committee on the Integrated Information System constituted by the Ministry of Economics and Finance - General Secretariat of Investment and Development (Government Gazette, vol. B', no 1525, 14.11.2001)	President of the Management Board of the Digital Aid S.A. (Government Gazette, vol. YODD, no 144, 23.4.2010)	
							Member of the Committee for the study of the security mechanisms of the Instant State Lottery (Government Gazette, vol. B', no 330, 16.3.2000)		
15	E. M.	(FP15)	Government Gazette vol. C, no 96, 7.5.1999	End of mandate, G.G. vol. C, no 30, 13.2.2003- Nomination of new members		Lawyer, PhD in Law	Special Adviser on issues of Organisation and Administration (Management) at the Political Bureau of the Prime Minister (First and Second Konstantinos Simitis Government). Duration of the mandate: 1.2.1996-10.3.2004 Appointment (Government Gazette, vol. C', no 62, 20.3.1996) Revocation of the mandate by decision of the Prime Minister Konstantinos Karamanlis (Government Gazette, vol. C', no 74, 17.3.2004)	Member of the special legislative drafting committee on the elaboration of the draft law "Protection of personal data" (Government Gazette, vol. B', no 623, 14.7.1995) Member of the Working Group on the Schengen Convention and the harmonization of the Greek legislation and particularly in relation to the legal problems arising from its implementation on issues related to the competences of the Ministry of Justice (Government Gazette, vol. B', no 395, 16.5.1997)	Assistant Professor at the University of Aegean (Government Gazette, vol. NPDD', no 14, 20.1.2004) Member of the special legislative committee regarding the final elaboration of the draft law of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (Government Gazette, vol. B', no 634, 30.4.2004) Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC

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15	E. M.	(FP15)					Member of the Working Group on International Issues constituted by the Ministry of Justice Mandate: 1.4.2000-1.4.2001 (Government Gazette, vol. B, no 296, 10.3.2000) Member of the Management Board of the Information Society S.A. (Government Gazette, vol. B', no 324, 27.3.2001)		on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010) Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (Government Gazette, vol. YODD', no 141, 21.4.2010) President of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the PNR (Passenger Name Record) Agreements of the European Union and the Governments of U.S.A., Canada and Australia on the processing and transfer of passengers' data (Government Gazette, vol. YODD', no 165, 7.5.2010) Alternate Member of the Ephorate of the General State Archives (Government Gazette, vol. YODD', no 373, 17.11.2010)

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16	K. M. (U16)	Government Gazette vol. C, no 245, 25.8.2000 Alternate Member of U4	Submission of resignation on 11.6.2002. He was replaced by Popi Fountedaki (Government Gazette, vol. C, no 245, 30.10.2002)			Professor of Constitutional Law at the Department of Law, Athens University	President of the Scientific Council of the Hellenic Parliament (2000-) (Government Gazette, vol. B, no 1416, 21.12.2000)	Member of the Management Board of the Hellenic Telecommunications and Post Commission (5 year mandate) (Government Gazette, vol. B', no 29, 19.1.1995) Submission of resignation: 22.5.2000 (Government Gazette, vol. B, no 669, 30.5.2000) Member of the Working Group on the Schengen Convention and the harmonization of the Greek legislation and particularly in relation to the legal problems arising from its implementation on issues related to the competences of the Ministry of Justice (Government Gazette, vol. B', no 395, 16.5.1997) Alternate Member of the Management Board of the State Scholarships Foundation (Government Gazette, vol. B', no 451, 30.5.1997) Submission of resignation in 1999 (Government Gazette, vol. B', no 878, 25.5.1999) Member of the Supreme Disciplinary Council for the year 1999 (Government Gazette, vol. B', no 49, 29.1.1999)	Member of the Supreme Council for the year 2006 (Government Gazette, vol. B, no 667, 29.5.2006)

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17 A. P. (U17)		Government Gazette vol. C, no 245, 30.10.2002 Alternate Member of U4 New appointment after the Constitutional Revision of 2001 (Government Gazette vol. C, no 30, 13.2.2003) Alternate Member of U26 2 year mandate Mandate renewed. New appointment as Regular Member (Government Gazette, vol. C, no 279, 24.10.2005)	Submission of resignation due to the Camaras case (20.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011 Revocation of the resignation Mandate should end on 13.10.2009		NGOs Member of the Secretariat of the Greek Committee for International Detention and Peace (NGO) (Decision of the 14th Conference, November 16, 2003) available at: http://www.eedye.gr/ , date of access: 9.12.2010 <u>Party Affiliation</u> Candidate in the Municipal and Prefectural Elections of 1998 with the Communist Party of Greece (Candidate as Municipal Counselor at the City of Athens). Source, Newspaper Rizospastis, http://www1.rizospastis.gr/story.do?id=3740985&textCriteriaClause= , date of access: 9.12.2010	Associate Professor of Penal Law at the Department of General Law, Panteion University of Social and Political Sciences			

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17 A. P. (U17)					Candidate for the European Elections of 1999 with the Communist Party of Greece Available at: http://org.elections.gr/elections/99/countries/Greece/Parts/kke/ipopsifioikke.htm , date of access: 20.5.2010				
18 P. F. (U18)		Government Gazette vol. C, no 245, 30.10.2002 New appointment after the Constitutional Revision of 2001 (Government Gazette vol. C, no 30, 13.2.2003) Alternate Member of U9 2 year mandate Mandate renewed. New appointment as Alternate Member of U31 (Government Gazette, vol. C, no 279, 24.10.2005) Mandate renewed (Government Gazette vol. C, no 125, 20.3.2008) Alternate Member of FP37 (until October 13, 2009)	Mandate should have ended on 13.10.2009			Associate Professor of Constitutional Law at the Department of General Law, Panteion University of Social and Political Sciences She was elected Alternate President of the Department of General Law of the Panteion University of Social and Political Sciences Mandate: 1.9.2010-31.8.2012 (Government Gazette, vol. YODD, no 294, 2.9.2010)	Alternate Member of the Management Board of the State Scholarships Foundation. Mandate: 1.8.2001-29.5.2005 (Government Gazette, vol. B', no 1008, 1.8.2001) Submission of resignation: 5.4.2004 (Government Gazette, vol. B', no 1005, 6.7.2004) Alternate Member of the National Committee for Human Rights representing the Hellenic Data Protection Authority, 2006- (Government Gazette, vol. YODD, no 322, 16.3.2006, no 108, 13.3.2009)	Member of the Secondary Supervisory Committee of Public Spectacles for the years 1995, 1996, 1997 (Government Gazette, vol. B', no 94, 10.2.1995, no 64, 31.1.1996, no 121, 26.2.1997)	

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19 D. G. (J19)		Government Gazette vol. C, no 30, 13.2.2003 President 4 year mandate	Submission of resignation due to the Cameras case (19.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeos=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011	Honorary Vice-President of the Hellenic Supreme Court of Civil and Penal Law (Areios Pagos)			Member of the National Committee for Human Rights representing the Hellenic Data Protection Authority (Government Gazette, vol. B', no 276, 7.3.2003)	Alternate President of the Committee of article 4 of the legislative decree 76/1974 on the restoration of civil servants sacked or forced to resign during the dictatorship of the colonels (1967-1974). He was substituted in 1992. (Government Gazette, vol. B, no 134, 5.3.1993) Member of the permanent Legislative drafting committee of the Ministry of Justice, 1994-1996 (Government Gazette, vol. B, no 380, 23.5.1994, no 430, 17.5.1995, no 498, 25.6.1996) President of the Administrative Committee on Military Requisitions of the Capital of the State (Government Gazette, vol. B, no 638, 30.7.1996) Caretaker Minister of Justice before the national elections of 2000 (Government Gazette, vol. A', no 101, 20.3.2000) President of the Central Legislative drafting committee (1998-2003) (Government Gazette, vol. B', no 61, 4.2.1998, no 103, 4.2.2000, no 1572, 22.12.2000) Submission of resignation on 10.2.2003 (Government Gazette, vol. B', no 191, 19.2.2003)	

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20 I. T. (U20)		Government Gazette vol. C, no 30, 13.2.2003 Regular Member 4 year mandate	Submission of resignation (Government Gazette, vol. C', no 872, 14.6.2004) U28 was appointed to the vacant post		<u>Party affiliation:</u> Secretary for Informatics and New Technologies, Nea Dimokratia Party, 1998-2004 Source, European Parliament, available at: http://www.europa.europa.eu/members/public/geoSearch/view.do?language=EN&id=96898 , date of access: 9.12.2010 Member of the party of New Democracy Extra-parliamentary member of the Sector for Education and Religious Affairs of the Parliamentary Work of New Democracy (2 year mandate)	Professor of Informatics at the Department of Informatics, University of Thessaloniki	Member of the Management Board of the Information Society S.A. (Government Gazette, vol. B', no 324, 27.3.2001) Member of the Management Board of the National Research and Technology Network S.A. (Government Gazette, vol. AE-EPE, no 11377, 23.10.2003)	Member of the Scientific Council of the National Centre for Scientific Research Demokritos (1997-2000) (Government Gazette, vol. B', no 26, 21.1.1997)	Revocable Secretary General for Research and Technology at the General Secretariat of the Ministry of Development (2004-2008) (Government Gazette, vol. C', no 75, 18.3.2004) Representative of Greece in the European Space Agency (2004-2007) Source, European Parliament, available at: http://www.europarl.europa.eu/members/public/geoSearch/view.do?language=EN&id=96898 , date of access: 9.12.2010 Member of the Council for the e-Government Forum (Government Gazette, vol. B, no 196, 15.2.2007)

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20	I. T.	(U20)			by decision of the Secretary General of the Parliamentary Group Dimitrios Sioufas, upon recommendation of the Coordinators and Heads of the Sector of Education and Religious Affairs and approval of the President of the Party (Konstantinos Karamanlis). The decision bears no date. However, it probably corresponds to the period between 2000-2004 Available at: http://www.nd.gr/index.php?option=com_content&task=view&id=11469&Itemid=151 , date of access: 21.5.2010 He was elected President of the Department of Informatics at the University of Thessaloniki Mandate: 1.9.2003-31.8.2005 (Government Gazette, vol. YODD, no 441, 15.10.2007)				

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20	I. T.	(U20)			Member of the European Parliament elected in the European elections of 2009 with the party of New Democracy Source: European Parliament available at: http://www.europa.eu/members/public/geoSearch/view.do?language=EN&id=96898 , date of access: 9.12.2010				

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21	G. P. (U21)	Government Gazette vol. C, no 30, 13.2.2003 Alternate Member of U20 4 year mandate Renewal of the mandate Government Gazette vol. C, no 125, 20.3.2008 Alternate Member of U28 Four year mandate	Submission of resignation due to the Cameras case (19.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011			Professor at the Technological Educational Institution of Athens			
22	S. S. (J22)	Government Gazette vol. C, no 30, 13.2.2003 Regular Member 4 year mandate	End of mandate, G.G. vol. YODD, no 125 , 20.3.2008-Nomination of new members	Honorary Councillor of State He retired from the service (pension) on July 1, 2000 (Government Gazette, vol. C, no 201, 12.7.2000)				Member of the Supreme Disciplinary Council for the years 1993 and 1998 (Government Gazette, vol. B, no 144, 11.3.1993, no 283, 20.3.1998) Member of the Supreme Special Court of article 100 of the Constitution for the period 1993-1997 (Government Gazette, vol. B, no 35, 21.1.1994, no 42, 19.1.1996)	

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23 C. P. (J23)		Government Gazette vol. C, no 30, 13.2.2003 Alternate Member of J22 4 year mandate He was appointed Alternate President to the vacant post after the resignation of J2 (Government Gazette, vol. C', no 185, 6.8.2003) Renewal of the mandate Government Gazette vol. C, no 125, 20.3.2008 Alternate President Four year mandate	Submission of resignation due to the Cameras case (19.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis)					
24 C. P. (FP24)		Government Gazette vol. C, no 30, 13.2.2003 Alternate Member of FP12 4 year mandate	Submission of resignation due to the Cameras case (19.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011		Lawyer	Member of the National Committee on Human Rights appointed by the Prime Minister (Konstantinos Karamanlis) as prestigious person with expertise in the protection of human rights (Government Gazette, vol. C, no 312, 24.11.2004)	Member of the permanent Legislative drafting committee of the Ministry of Justice (Government Gazette, vol. C, no 116, 5.3.1993)		

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25 A. K. (U25)		Government Gazette vol. C, no 30, 13.2.2003 Alternate Member of U4 2 year mandate	End of mandate, G.G. vol. YODD, no 125 , 20.3.2008-Nomination of new members		<u>Party affiliation</u> Member of the party of New Democracy Extra-parliamentary member of the Sector for Education and Religious Affairs of the Parliamentary Work of New Democracy (2 year mandate) by decision of the Secretary General of the Parliamentary Group Dimitrios Sioufas, upon recommendation of the Coordinators and Heads of the Sector of Education and Religious Affairs and approval of the President of the Party (Konstantinos Karamanlis). The decision bears no date. However, it probably corresponds to the period between 2000-2004 Available at: http://www.nd.gr/index.php?option=com_content&task=view&id=11469&Itemid=151 , date of access: 21.5.2010	Professor of Civil Procedural Law at the Department of Law, University of Thessaloniki, Lawyer, Law Office	Member of the Scientific Council of the Ministry of Foreign Affairs (3 year mandate) (Government Gazette, vol. B', no 855, 10.6.2004) President of the Management Board of the Industrial Property Organisation (4 year mandate) (Government Gazette, vol. B', no 1866, 15.12.2004)	Director and President of the Board of the Centre of International and European Economic Law (2005-2007). Sources: Official Website of the Centre, available at: http://www.cieel.gr/en/about2.jsp , date of access: 10.12.2010, Government Gazette, vol. B', no 538, 28.4.2006, No 18246/404/18.5.2005 Decision of the Minister of Finance and Economics. Member of the Governing Board of the International University of Greece (Government Gazette, vol. YODD, no 157, 6.6.2006 President of the Extraordinary Committee for the technical assessment of the bids of the open tender for "the Development of the National System of Electronic Public Procurement"	of the General Secretariat of Commerce of the Ministry of Development (Government Gazette, vol. B', no 700, 7.6.2006) Reconstitution of the Committee for the reassessment of complaints (Government Gazette, vol. YODD, no 561, 31.12.2007 Member of the Committee on Bioethics (Government Gazette, vol. B', no 851, 7.7.2006) President of the special committee on the codification of the legislation regarding the structure and operation of the Institutions of Higher Education (Government Gazette, vol. YODD, no 162, 23.4.2007) Member of the National Council for Research and Technology (Government Gazette, vol. YODD, no 83, 25.2.2008)

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26 N. P. (J26)		Government Gazette vol. C, no 30, 13.2.2003 Regular Member 2 year mandate	End of mandate: G.G. vol. C, no 279, 24.10.2005-Nomination of new members		Party affiliation Parliamentary candidate in the national elections of 2004 with the Communist Party of Greece (second constituency of Athens) Source: Official Website of the Lambrakis Press S.A., ., available at: http://ekloges.dolnet.gr/2004/news/article.asp?lngInsID=50&lngEntityID=893&lngDtrID=8 , date of access: 21.05.2010	Professor of Mathematics at the School of Applied Mathematics and Physical Sciences, National Technical University of Athens			
27 A. P. (J27)		Government Gazette vol. C, no 185, 6.8.2003 Alternate Member of J22 2 year mandate Renewal of the mandate Government Gazette vol. C, no 125, 20.3.2008 Regular Member four year mandate		Former Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis). He retired from the service on July 1, 2003 (Government Gazette, vol. C, no 160, 10.7.2003)				President (in his capacity as Judge of Appeals) of the Secondary Council for the Selection of Medical and Dental Personnel in Hospitals (Government Gazette, vol. B', no 562, 28.6.1995)	

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28 A. P. (U28)		Government Gazette vol. C, no 185, 6.8.2003 Regular Member For the rest of the four year mandate of U20 Renewal of the mandate Government Gazette vol. C, no 125, 20.3.2008 Regular Member 4 year mandate			Party affiliation Member of the party of New Democracy Extra-parliamentary member of the Sector for Education and Religious Affairs of the Parliamentary Work of New Democracy (2 year mandate) by decision of the Secretary General of the Parliamentary Group Dimitrios Sioufas, upon recommendation of the Coordinators and Heads of the Sector of Education and Religious Affairs and	Professor of Informatics at the Department of Informatics, University of Thessaloniki	Alternate Member of the National Council for Research and Technology (Government Gazette, vol. B, no 1675, 13.11.2003) Alternate Member, representing the party of New Democracy according to the as of 3.5.2004 document of the General Secretary of the Parliamentary Group of New Democracy, of the Committee for the supply of goods of relevant economic or technological value (the supply of informatics articles for the implementation of the project "Computer Equipment for the participation of the Greek Police to the modernization of Public Administration with the use of Informatics (POLICE ON LINE), assigned to the "Information Society S.A.") (Government Gazette, vol. B', no 932, 21.6.2004)	Member of the special legislative drafting committee with the aim to proceed to legal regulations for the adjustment of the internal legislation to the provisions of the Statute of the International Penal Court ratified by law 3003/2002 (Government Gazette, vol. B, no 1803, 6.12.2004) Member of the Supreme Disciplinary Council of article 91 of the Constitution for the year 2004 (Government Gazette, vol. B, no 76, 21.1.2004)	

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28 A. P. (U28)					approval of the President of the Party (Konstantinos Karamanlis). The decision bears no date. However, it probably corresponds to the period between 2000-2004 Available at: http://www.nd.gr/index.php?option=com_content&task=view&id=11469&Itemid=151 , date of access: 21.5.2010 He was elected President of the Department of Informatics at the University of Thessaloniki Mandate: 1.9.2007-31.8.2009 (Government Gazette, vol. YODD, no 441, 15.10.2007)				

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29	L. K. (U29)	Government Gazette vol. C, no 279, 24.10.2005 Regular Member 4 year mandate	Mandate should have ended on 13.10.2009			Professor of Penal Law at the Department of law, Athens University, Lawyer, Law Office Source: The Official Website of Athens University, available at: http://poiniko.law.uoa.gr/html/kotsalis.html , date of access: 26.3.2011	Member of the Central Legislative drafting committee (Government Gazette, vol. B, no 1490, 1.10.2004) Member of the Scientific-Advisory Board of the Ministry of Transport and Communications pursuant to article 13, par. 7 of the law 2578/1998 (2004,2005, 2007) (Government Gazette, vol. B, no 1608, 27.10.2004, no 1813, 22.12.2005, no 14, 23.1.2007) Member of the special legislative drafting committee for the final processing and formulation of the draft law on the establishment of the Judicial Police (Government Gazette, vol. B, no 701, 25.5.2005) President of the special legislative drafting committee on the final processing of draft laws pertaining to the competence of the Ministry of Justice (Government Gazette, vol. B, no 382, 28.3.2006)	Member of the Supreme Disciplinary Council of article 91 of the Constitution for the year 2004 (Government Gazette, vol. B, no 76, 21.1.2004) Member of the special legislative drafting committee with the aim to proceed to legal regulations for the adjustment of the internal legislation to the provisions of the Statute of the International Penal Court ratified by law 3003/2002 (Government Gazette, vol. B, no 1803, 6.12.2004)	

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29	L. K.	(U29)					<p>Member of the Special legislative drafting committee for the elaboration of a draft law on the enhancement of the legislative framework regarding the security of communications (Government Gazette, vol. B, no 493, 18.4.2006)</p> <p>Member of the Central Committee of Codification (Government Gazette, vol. YODD, no 40, 1.2.2008) Submission of resignation and appointment of the new Board (Government Gazette, vol. YODD, no 535, 23.12.2009)</p> <p>Member of the examination committee for the entrance examination to the National School of Judicial Officers (Civil and Penal Justice) for the year 2009 (Government Gazette, vol. YODD, no 254, 15.6.2009)</p> <p>Member of the Special legislative drafting committee for the reformation of the provisions of the Code of Laws on Drugs ratified by the law 3459/2006 (Government Gazette, vol. YODD, no 96, 17.3.2010)</p>		

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30	I. G. (U30)	Government Gazette vol. C, no 279, 24.10.2005 Alternate Member of U29 4 year mandate	Submission of resignation (Government Gazette, vol. C, no 341, 4.8.2008) Appointment of U38 to the vacant post		He was elected President of the Department of Law at the University of Athens Mandate: 1.9.2007-31.8.2009 (Government Gazette, vol. YODD, no 362, 17.8.2007)	Associate Professor of Procedural Penal Law at the Department of Law, Athens University, Lawyer, Law Office Source: The Official Website of the National Bank of Greece, available at: http://www.nbg.gr/wps/wcm/connect/c80367004cef70a78a96dbd500a6cdd0/007_017_Giannidis_GR.pdf?MOD=AJPERES&CACHEID=c80367004cef70a78a96dbd500a6cdd0&CACHEID=a53996004cd0c7a59985fddcd25ebc6fe , date of access: 26.3.2011	Independent Non Executive Member of the Public Power Company S.A. (Government Gazette, vol. AE-EPE, no 538, 23.1.2004) Submission of resignation on July, 3, 2008 (Government Gazette, vol. AE-EPE, no 10260, 5.9.2008) Member of the Special Committee on the elaboration of the Code of Criminal Procedure (Government Gazette, vol. B', no 1663, 29.11.2005) Since 1993 legal adviser of the National Bank of Greece Source: The Official Website of the National Bank of Greece, available at: http://www.nbg.gr/wps/wcm/connect/c80367004cef70a78a96dbd500a6cdd0/007_017_Giannidis_GR.pdf?MOD=AJPERES&CACHEID=c80367004cef70a78a96dbd500a6cdd0&CACHEID=a53996004cd0c7a59985fddcd25ebc6fe , date of access: 26.3.2011	Since 1993 legal adviser of the National Bank of Greece Source: The Official Website of the National Bank of Greece, available at: http://www.nbg.gr/wps/wcm/connect/c80367004cef70a78a96dbd500a6cdd0/007_017_Giannidis_GR.pdf?MOD=AJPERES&CACHEID=c80367004cef70a78a96dbd500a6cdd0&CACHEID=a53996004cd0c7a59985fddcd25ebc6fe , date of access: 26.3.2011, Alternate Member of the European Cultural Centre of Delphi (Government Gazette, vol. B, 483, 19.11.2008) Member of the special legislative drafting committee on the reassessment of the substantial penal legislation (penal Code and special penal laws) (Government Gazette, vol. B, no 317, 8.5.1996) Member of the permanent legislative drafting committee of the Ministry of Justice, 1993, 1996-1998	Customer Advocate at the National Bank of Greece: 2010-(Source: Newspaper Imerisia, available at: http://www.imerisia.gr/article.asp?catid=12334&subid=2&pubid=4789315 , date of access: 11.10.2010) Member of the examination committee for the entrance examination to the National School of Judicial Officers (Civil and Penal Justice) for the years 2008, 2009 and 2010 (Government Gazette, vol. YODD, no 483, 19.11.2008) 254, 15.6.2009, no 122, 9.4.2010) Member of the Special Committee on the elaboration of the Code of Criminal Procedure 2008-2009 no 293, 8.7.2008, no 389, 4.9.2009). Replaced (Government Gazette, vol. B', no 389, 4.9.2009)
							Counselor of the Management Board of the National Bank of Greece SA, 2004- (Government Gazette, vol. TAE-EPE, no 4413, 20.5.2004)	(Government Gazette, vol. B, 116, 5.3.1993 no 498, 25.6.1996 no 79, 7.2.1997) no 133, 18.2.1998)	
							Member of the Special Committee on the elaboration of the Code of Criminal Procedure (2005, (Government Gazette, vol. B', no 1663, 29.11.2005)		

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30	I. G.	(U30)						Member of the Working Group for the study and proposal of amendments to the legislation on the penal liability of members of the Government (Cabinet) and Secretaries of State (Deputy Ministers) with a view to improve the relevant regulations and their harmonization with article 86 of the revised Constitution (Government Gazette, vol. B', no 290, 18.7.2001)	
								Member of the Central Committee of Technical and Scientific Collaboration of the Ministry of Foreign Affairs (Government Gazette, vol. B', no 1041, 28.7.2003)	
31	F. D.	(U31)	Government Gazette vol. C, no 279, 24.10.2005 Regular Member 4 year mandate	Submission of resignation due to the Cameras case (19.11.2007) Source: The official website of the Authority, Press Releases, http://www.dpa.gr/portal/page?_pageid=33%2C15131&_dad=portal&_schema=PORTAL&_piref33_24849_33_15131_15131.etos=2007&_piref33_24849_33_15131_15131.minas=11&_piref33_24849_33_15131_15131.ananeosi=%CE%91%CE%BD%CE%B1%CE%BD%CE%AD%CF%89%CF%83%CE%B7 , date of access: 4.5.2011		Professor of Civil Law at the Department of Law, Athens University. He retired from the service on August 31, 2009 (Government Gazette, vol. C', no 366, 18.5.2009) Professor Emeritus, Athens University,	Alternate Member of the Management Board of the State Scholarships Foundation (3 year mandate (Government Gazette, vol. B', no 367, 28.3.2003) First alternate member of the Supreme Disciplinary Council of article 91 of the Constitution (Government Gazette, vol. B, no 1785, 7.12.2006) Fourth Alternate Member of the Special Court for Mistrial (Government Gazette, vol. B', no 2009, 11.10.2007)	Member of the legislative drafting committee on the elaboration of a draft law on the National Land Registry (Ministerial Decision no 13426/30.11.1994, Government Gazette, vol. B, no 27, 19.1.1996) Member of the Management Board of the Greek Mapping and Cadastre Organisation 1994-2003 (Government Gazette, vol. B', no 943, 30.12.1993, no 484, 11.6.1997 no 1024, 21.8.2000)	

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31 F. D. (U31)						Professor of Civil Law at the Department of Law, Athens University. He retired from the service on August 31, 2009 (Government Gazette, vol. C', no 366, 18.5.2009) Professor Emeritus, Athens University, Lawyer, Law Office The Official Website of the European Lawyer, available at: http://www.europeanlawyer.co.uk/greece.html , date of access: 26.3.2012		Member of the legislative drafting committee for the elaboration of a Pan-Hellenic plan regarding the spatial distribution of the Courts of any degree and jurisdiction (Government Gazette, vol. B', no 286, 19.4.1994) (Government Gazette, vol. B', no 1081, 20.8.2002)	
32 I. T. (U32)		Government Gazette vol. C, no 279, 24.10.2005 Alternate Member of U17 4 year mandate	Submission of resignation on 2.9.2009 after his appointment as member of the Hellenic Telecommunications and Post Commission			Assistant Professor of International and European Economic Law at Department of Department of Balkan, Slavic, and Oriental Studies, University of Macedonia Lawyer (Law Office) The Official Website of the Thessaloniki Bar Association,	Vice-President of the Professional Education and Training Organisation Mandate: 30.10.2007-30.10.2010 (Government Gazette, vol. YODD', no 500, 22.11.2007) Submission of resignation: 6.2.2009 (Government Gazette, vol. B, no 1088, 5.6.2009) President of the Regional Council of National Legacies of the Region of Central Macedonia Three-year mandate (Government Gazette, vol. B', no 601, 5.5.2005) Renewal of the mandate: (Government Gazette, vol. YODD, no 218, 15.5.2008)		

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32	I. T.	(U32)				http://www.dsth.gr/web/guest/members-phonebook?p_p_id=PA_CONTACTS&p_p_action=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=2&p_p_col_count=3&_PA_CONTACTS_struts_action=%2Fext%2Fparties%2Fcontacts%2Fsearch&p_p_action=1&_PA_CONTACTS_search=true&_PA_CONTACTS_name=%CE%A4*_PA_CONTACTS_d-49489-s=5&_PA_CONTACTS_alphabet=true&_PA_CONTACTS_d-49489-p=1&_PA_CONTACTS_d-49489-o=1, date of access: 26.3.2011	Vice-President of the Central Examination Committee on the Accreditation of Professional Training Three-year mandate (Government Gazette, vol. YODD', no 15, 15.1.2008) Member of the National Committee for the definition of Professional Rights, 2 year mandate (Government Gazette, vol. YODD', no 19, 17.1.2008) Alternate Vice-President of the Steering Committee for the Association of Vocational Education and Training with Employment (Government Gazette, vol. YODD', no 386, 12.9.2008) Submission of resignation (Government Gazette, vol. YODD', no 154, 10.4.2009) Alternate Member of the Scientific-Advisory Council of the Ministry of the Transport and Communications (Government Gazette, vol. YODD', no 86, 3.4.2009)	Member of the Hellenic Telecommunications and Post Commission (4 year mandate) (Government Gazette, vol. YODD', no 380, 2.9.2009)	

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33 C. G. (J33)		Government Gazette vol. C, no 125, 20.3.2008 President 4 year mandate	Submission of resignation on February 8, 2011.	Honorary President of the Council of State He retired from the service on July 1, 2005 (Government Gazette, vol. C, no 167, 8.7.2005)				Former member of the Court of First Instance of the European Communities (1989-1992) Member of the teaching staff under contract of the National School of Public Administration, and the National School of Judicial Officers Source: Official Website of the Federation of the employees of the Independent Authorities, available at: http://www.oeea.gr/index.php?option=com_content&view=article&id=90%3A2011-01-20-09-02-39&catid=39%3A2011-01-15-08-50-26&Itemid=68&lang=el , date of access: 7.3.2011 Member of the Scientific Council of the Hellenic Centre for European Studies (EKEM) (1994-2001) Source: EKEM, available at: http://www.ekem.gr/~a- , date of access: 7.3.2011 President of the special legislative drafting committee of the Ministry of Environment, Planning, and Public Works (Government Gazette, vol. B', no 109, 18.2.1994) President of the special legislative drafting committee on the strengthening of the legal framework regarding the security of communications (Government Gazette, vol. YODD, no 36, 10.10.2006)	

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34 I. D. (J34)		Government Gazette vol. C, no 125, 20.3.2008 Alternate Member of J27 4 year mandate	Submission of resignation (Government Gazette, vol. C, no 341, 4.8.2008 Appointment of LM39 to the vacant post	Honorary Judge of the Hellenic Supreme Court of Civil and Penal Law (Areopagitis). He retired from the service on July 1, 2006 (Government Gazette, vol. C', no 20.7.2006)				Member of the Special legislative drafting committee on the processing of legal regulations for the establishment of measures and procedures for the assessment and ranking of infrastructures and needs of the judicial buildings throughout the territory (Government Gazette, vol. B, no 1531, 14.10.2004) Member of the Supreme Disciplinary Council of Lawyers for the year 2003 (Government Gazette, vol. B, no 144, 11.2.2003)	
35 A-I. M. (U35)		Government Gazette vol. C, no 125, 20.3.2008 Regular Member 4 year mandate		Professor Emeritus, Athens University (Political Scientist)			Member of the Management Board of Peristeri Development SA (Peristeri is a Municipality in Athens). The company has undertaken actions of the European project URBAN. Source, the official website of the Company, available at: http://www.peristeri.gr/index.php?option=com_content&task=view&id=110&Itemid=149 , date of access: 20.5.2010 Member of the Governing Board of the University of Peloponnisos (22.6.2009-14.12.2009) (Government Gazette, vol. YODD, no 265, 22.6.2009, no 13, 20.1.2010)	Member of the Management Board of the Hellenic Radio and Television President of the National Centre for Social Research (EKKE) Source, Official Website of the Department of Political Science and Public Administration, Athens University, available at: http://www.pspa.uoa.gr/node.php?n=0_1_5_metaxas&lang=el , date of access, 20.5.2010	

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36	G. L.	(FP36) Government Gazette vol. C, no 125, 20.3.2008 Alternate Member of U35 4 year mandate			Party affiliation 7/2002-2/2004: Scientific Collaborator of the Deputy of the First Constituency of Athens and Parliamentary Representative of the Party of New Democracy Professor Prokopis Pavlopoulos Source: CV, Personal Webpage, available at: http://www.lazarakos.gr/ , date of access: 26.3.2011 NGOs Scientific Collaborator of the think tank Institute for Democracy- Konstantinos Karamanlis Source: The Official Website of the Institute for Democracy, available at: http://www.idkaramanlis.gr/hr/108 , date of access: 15.6.2011	Lawyer, PhD in Law Law Office, Source: CV, Personal Webpage, available at: http://www.lazarakos.gr/ , date of access: 26.3.2011	Member of the permanent Working Group on issues related to logistics at the Ministry of Transport and Communications (Government Gazette, vol. YODD, no 442, 24.10.2008) Adjunct Professor at the Department of Political Science and International Relations, University of Peloponnese, for the academic year 2008-2009 Source: The Official Website of the University of Peloponnese, available at: http://pedis.uop.gr/joomla/index.php?option=com_content&view=article&id=125&Itemid=3&lang=el , date of access: 26.3.2011 Since 2003-? adjunct professor at the Department of Marketing and Communication, Athens University of Economics and Business The Official Website of the Athens University of Economics and Business Available at: http://195.251.250.184/greek/human.htm , and CV, Personal Webpage, available at: http://www.lazarakos.gr/ , date of access: 26.3.2011	7/2002 2/2004: Scientific Collaborator of the Deputy of the First Constituency of Athens and Parliamentary Representative of the Party of New Democracy Professor Prokopis Pavlopoulos Source: CV, Personal Webpage, available at: http://www.lazarakos.gr/ , date of access: 26.3.2011 Revocable Director at the Political Bureau of the Minister of Internal Affairs, Public Administration and Decentralisation 2004-24.8.2007 (Government Gazette, vol. C, no 80, 24.3.2004) Revocable employee at the Political Bureau of the Caretaker Minister of Internal Affairs, Public Administration, and Decentralisation before the national elections of 2007 Mandate: 25.8.2007-19.9.2007 (Government Gazette, vol. YODD', no 423, 5.10.2007) Member of the Group of Project Management regarding "the establishment of mechanisms for effective and sustainable implementation of readmission agreements between Albania, EU, and interested third countries" approved under the first call for the Project AENEAS (20.4.2006- 20.4.2008) (Government Gazette, vol. YODD, no 70, 9.11.2006 He was replaced (Government Gazette, vol. YODD, no 188, 2.5.2008)	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
	36 G. L. (FP36)							Member of the Project Management Group regarding the procedure of issuing residence permits of uniform type with the form of stand-alone document (Government Gazette, vol. YODD, no 77, 27.2.2007). He was replaced (Government Gazette, vol YODD, no 526, 10.12.2007)	
	37 A. R. (FP37)	Government Gazette vol. C, no 125, 20.3.2008 Regular Member, mandate until October 13, 2009 for the rest of the mandate of the resigned U31	Mandate should have ended on 13.10.2009		Trade Unionism Former Vice-President of the Athens Bar Association (1993-1996) Former President of the Athens Bar Association 1996-2002 His candidacy was supported by the political party of Synaspismos Sources: Newspaper Makedonia, available at: http://www.hyper.gr/makthes/960305/60305f10.htmlweb site , date of access: 24.5.2010 Website Nooz.gr, available at: www.nooz.gr/page.ashx?pid=9&aid=14835 , date of access: 24.5.2010	Lawyer		Member of the National Committee on Human Rights representing the Hellenic Data Protection Authority (Government Gazette, vol. YODD, no 236, 30.5.2008, vol. YODD no 108, 13.3.2009)	Member of the permanent legislative drafting committee of the Ministry of Justice, 1993-1999 (Government Gazette, vol. B, no 875, 2.12.1993, no 380, 23.5.1994, no 430 17.5.1995, no 498, 25.6.1996 no 79, 7.2.1997) no 133, 18.2.1998, no 2101, 1.12.1999) Member of the special legislative drafting committee on the new Code of Lawyers (Government Gazette, vol. B, no 2101, 1.12.1999, no 91, 11.2.1997) President of the special legislative drafting committee on the final elaboration of the draft law "Code of Lawyers" (Government Gazette, vol. B, no 152, 15.2.2001)

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
38 D. L. (U38)		Government Gazette vol. YODD, no 341, 4.8.2008 Alternate Member of Leonidas Kotsalis after the resignation of I. Giannidis	Mandate should have ended on 13.10.2009			Lecturer of Civil Law at the Department of Law, Athens University, Law Office	Member of the Committee for the examination of requests regarding the granting of the postponement of ranking in the armed forces for PhD holders or those who excel at scientific work or research abroad (2008-2010) (Government Gazette, vol. YODD, no 447, 30.10.2008)	Member of the Working Group assigned to answer the questionnaire of the Green Paper of the European Commission on damages actions for breach of antitrust rules of the European Communities (Government Gazette, vol. B, no 484, 18.4.2006) Member of the Committee for the examination of requests regarding the granting of the postponement of ranking in the armed forces for PhD holders or those who excel at scientific work or research abroad (2006-2008) (Government Gazette, vol. YODD, no 11, 14.9.2006)	
39 P. T. (LM39)		Government Gazette vol. YODD, no 341, 4.8.2008 Alternate Member of J27 after the resignation of J34 Mandate shall end on 20.03.2012		Member of the Scientific Staff of the Greek Ombudsman (2003-2007). He retired from the post during 2007.		Lawyer, PhD in Social Law, Lawyer with a salary mandate at the General Hospital of Athens "Hippokrateion" (Government Gazette, vol. C, no 522, 30.7.2007)	Special Collaborator at the Political Bureau of the Minister of Internal Affairs, Public Administration and Decentralization, P. Pavlopoulos, while exercising his main duties as lawyer with a salary mandate at the General Hospital of Athens "Hippokrateion" (Government Gazette, vol. YODD, no 488, 16.11.2007) Submission of resignation 3.2.2009 (Government Gazette, vol. YODD, no 115, 18.3.2009) Member of the Working Group on the monitoring of the projects under the action "Support of the pre-contractual procedure for the partnerships between the local authorities and the private sector". Duration of the work of the Committee: 1.1.2008-31.12.2009 (Government Gazette, vol. YODD, no 134, 31.3.2008)	Member of the Scientific Staff of the Greek Ombudsman (2003-2007). He retired from the post during 2007. The annual reports for the years 2005 and 2006 mention that he served on secondment to another public service. On secondment Special Adviser of the Minister of Internal Affairs, Public Administration and Decentralization (the information is indirect). Source, Government Gazette, vol. B, no 616, 17.5.2006 Source: AnnualReports for the years 2003, 2004, 2005, 2006 and 2007 Annexes, p. 337 (2003), Annexes, p. 299, (2004), Annexes, p. 341 (2005), Annexes, p. 381 (2006), Annexes, p. 343 (2007), available at: http://www.synigoros.gr/annual_2003_gr.htm and http://www.synigoros.gr/annual_2004_gr.htm , date of access: 23.12.2010,	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
39	P. T.	(LM39)					<p>Member of the Project Management Group at the Ministry of Internal Affairs, Public Administration and Decentralization for the elaboration of the Integrated Action Plan for the smooth adaptation and integration of third country nationals into the Greek society</p> <p>End of the work of the Committee: 31.12.2008 (Government Gazette, vol. YODD, no 211, 14.5.2008)</p> <p>End of mandate due to his resignation from the post of Special Adviser (Government Gazette, vol. YODD, no 220, 27.5.2009)</p>	<p>http://www.synigoros.gr/annual_05/10_parartima_kp.pdf, date of access: 23.12.2010,</p> <p>http://www.synigoros.gr/pdfs/annual_06_pdfs/annual_p_kprosopiku_06.pdf, date of access: 23.12.2010,</p> <p>http://www.synigoros.gr/pdf_01/annual_07/katastasi_proswpikou.pdf, date of access: 23.12.2010</p> <p>Special Collaborator at the Political Office of the Minister of Internal Affairs, Public Administration and Decentralization (Caretaker Minister of Internal Affairs, Public Administration, and Decentralisation, S. Flogaitis, appointed before</p>	<p>the national elections of 2007), with parallel exercise of his main duties as lawyer with a salary mandate at the General Hospital of Athens "Hippokrateion". He was appointed for the period 24.8.2007-19.9.2007 (Appointment: Government Gazette, vol. YODD, no 372, 27.8.2007, Dismissal: Government Gazette, vol. YODD, no 423, 5.10.2007)</p> <p>Vice-President of the Management Board of the National Centre for Social Emergency Assistance (2004-2006) (Government Gazette, vol. NPDD, no 119, 18.5.2004)</p> <p>Special Rapporteur of the Committee on the elaboration of the new Municipal and Community Code. Duration of the work of the Committee : 31.12.2004 (Government Gazette, vol. B, no 1395, 13.9.2004)</p>

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
39	P. T.	(LM39)						<p>Member of the Working Groups (Group of Administrative Organisation) for the collection and codification of the administrative and social security legislation (2004-2006) (Government Gazette, vol. B, no 1734, 23.11.2004, 310, 15.3.2006)</p> <p>Member of the Working Group on the monitoring of the projects under the action "Support of the pre-contractual procedure for the partnerships between the local authorities and the private sector". Duration of the work of the Committee: 1.1.2006-31.12.2007 (Government Gazette, vol. B, no 616, 17.5.2006)</p> <p>Member of the Project Management Group at the Ministry of Internal Affairs, Public Administration and Decentralization for the elaboration of the Integrated Action Plan for the smooth adaptation and integration of third country nationals into the Greek society Duration of the work of the Committee (25.9.2006-25.4.2007) (Government Gazette, vol. YODD, no 28, 2.10.2006)</p>	

Serial Number	Name Surname	Appointment-Reappointment-Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the end of the mandate/Appointment to the Authority
39	P. T.	(LM39)						<p>Member of the teaching staff of the University of Peloponnese under contract pursuant to the Presidential Decree 407/80 (adjunct professor) during the academic year 2007-2008. Source: Official Website of the University of Peloponnese, available at: http://depts.uop.gr/departments/depart8/odig2007-2008.doc, date of access: 25.12.2010</p> <p>Member of the Project Management Group in/at the Ministry of Internal Affairs, Public Administration and Decentralization for the implementation of the new European Programme – Framework for the solidarity and management of Migration Flows in Greece for the period 2007-2013 (Government Gazette, vol. YODD, no 164, 24.4.2007)</p> <p>Member of the Project Management Group in the Ministry of Internal Affairs, Public Administration and Decentralization regarding the procedure of issuing residence permits of uniform type with the form of stand-alone document (Government Gazette, vol. YODD, no 77, 27.2.2007).</p>	

APPENDIX 3

Career Paths of the Ombudsman and Deputy Ombudsmen

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
1	N. D.	(U1) Government Gazette vol. C, no 57, 24.3.1998 (5 year mandate) The Greek Ombudsman	End of mandate: 2003			Professor of Political Science at the Department of Political Science and Public Administration, Athens University. Suspension of duties Appointed in 1993 and retired from the service on August 31, 2009 (Government Gazette, vol. C', no 366, 18.5.2009) under suspension of duties	Member of the Management Board of the Cultural Foundation of the National Bank of Greece (1999-2005) Publication of the end of his mandate in the Government Gazette (Government Gazette, vol. NPDD, no 90, 4.4.2006) Ex Officio Member of the National Committee for Human Rights representing the institution of the Greek Ombudsman (Government Gazette, vol. B', no 1833, 1.10.1999) Member of the National Council on Public Administration Reform (2000) Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 193, available at: http://www.synigoros.gr/annua101_en/en_2001.pdf , date of access: 4.3.2011	Director of the Hellenic Foundation for European and Foreign Policy (think tank) 1988-1991 Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 193, available at: http://www.synigoros.gr/annua101_en/en_2001.pdf , date of access: 4.3.2011 Member of the Scientific Council of the National Centre for Social Research (EKKE) (3-year mandate) (Government Gazette, vol. B', no 457, 24.6.1993) Member of the National Advisory Board of Research 1994-1998 (Government Gazette, vol. B', no 129, 24.2.1994, vol. B', no 785, 12.9.1995) Director of the National Centre for Social Research (EKKE) 1995-1998 (Government Gazette, vol. B', no 850, 11.10.1995)	European Ombudsman (2003) 2003/158/EC, Euratom: Decision of the European Parliament of 15 January 2003 appointing the European Ombudsman OJ L 65, 8.3.2003, p. 26–26, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:065:0026:0026:EN:PDF , date of access: 26.12.2010 European Ombudsman (2005) Decision of the European Parliament of 11 January 2005 appointing the European Ombudsman (2005/46/EC, Euratom), in Official Journal of the European Union (OJEU). 25.01.2005, No L 21, p. 8, available at: http://eur-lex.europa.eu/Result.do?aaaa=2005&mm=01&jj=25&type=&nnn=&pppp=8&RechType=RECH_reference_pub&Submit=%CE%91%CE%BD%CE%B1%CE%B6%CE%AE%CF%84%CE%B7%CF%83%CE%B7 , date of access: 26.12.2010 European Ombudsman 2010, European Parliament Decision of 20 January 2010 electing the European Ombudsman, OJ C 305E, 11.11.2010, p. 19–20, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:305E:0019:0020:EN:PDF , date of access: 26.12.2010

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
1	N. D.	(U1)						<p>Alternate Member of the Management Board of the Hellenic Data Protection Authority (Government Gazette vol. C, no 184, 3.9.1997). Submission of resignation after his appointment to the post of the Greek Ombudsman on April 30, 1998 (Government Gazette, vol. C, no 96, 7.5.1999)</p>	<p>European Ombudsman (2005) Decision of the European Parliament of 11 January 2005 appointing the European Ombudsman (2005/46/EC, Euratom), in Official Journal of the European Union (OJEU). 25.01.2005, No L 21, p. 8, available at: http://eur-lex.europa.eu/Result.do?aaaa=2005&mm=01&jj=25&type=&nnn=&pppp=8&RechType=RECH_reference_pub&Submit=%CE%91%CE%BD%CE%B1%CE%B6%CE%AE%CF%84%CE%B7%CF%83%CE%B7, date of access: 26.12.2010</p> <p>European Ombudsman 2010, European Parliament Decision of 20 January 2010 electing the European Ombudsman, OJ C 305E , 11.11.2010, p. 19–20, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:305E:0019:0020:EN:PDF, date of access: 26.12.2010</p>

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
2	G. K. (U2)	Government Gazette, vol. C, no 203, 29.10.1998 Deputy Ombudsman, Department of Human Rights (5 year mandate) He will be elected Ombudsman in 2003 (Government Gazette vol. C, no 96, 24.3.2003) Government Gazette vol. C, no 96, 24.3.2003 (4 year mandate) The Greek Ombudsman Renewal of mandate Government Gazette vol. YODD, no 72, 21.2.2008 (4 year mandate)	Submission of resignation from the post of the Ombudsman (Government Gazette, vol. YODD, no 333, 13.10.2010) He ran for the municipality of Athens during the Regional and Municipal Elections of 2010.		Party affiliation Kaminis' candidacy for the municipality of Athens was supported by the following political parties: Democratic Left (Dimokratiki Aristera), available at: http://www.ananotiki.gr/el/readText.asp?textID=5032 Action (Drassi), available at: http://www.drassi.gr/index.php?id=1151&title=H%20Δράση%20για%20τους%20δημους%20Αθήνας%20και%20Θεσσαλονίκης	under suspension of duties	Assistant Professor of Constitutional Law at the Department of Law, Athens University (June 1998). Source: Kaminis' facebook, available at: http://www.facebook.com/kaminisG , date of access: 26.12.2010 Under suspension of duties Lecturer of Constitutional Law at Athens University (1991-1998). Scientific Collaborator at the Second Chair of Constitutional Law at Athens University (November 1982). Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 194, available at http://www.synigoros.gr/annuaI01_en/en_2001.pdf , date of access, 4.3.2011	Since September 1989 and for fifteen years he has worked as Scientific Collaborator (research fellow) at the Department of Parliamentary Studies and Research of the Directorate of Scientific Studies at the Scientific Service of the Hellenic Parliament. Sources: Kaminis' facebook, available at: http://www.facebook.com/kaminisG , date of access: 26.12.2010. Press release of the Hellenic Parliament dated 3.4.2003 announcing the election of G. Kaminis to the post of the Greek Ombudsman, available at: http://www.hellenicparliament.gr/Enimerosi/Deltia-Typou/?press=33fdd293-b800-424c-b4cd-4e7d0a31ee82 , date of access: 26.12.2010	He was elected Mayor of Athens on 14.11.2010 with 51,95% of the votes. (Registered voters: 488.150, voted: 167.104 (34.23%), invalid votes: 5.44%, blank votes: 5.67% votes for Kaminis: 77.165 Source: Ministry of the Interior, Decentralisation and Electronic Governance, available at: http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#["page":"level","params":{"level":"dhm_d","id":"9186"}] , date of access: 27.12.2010

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
2	G. K.	(U2)			Ecologists – Greens, available at: http://www.ecoathens.gr/blog/2010/09/συμμετοχή-στην-κίνηση-καμίνη-έμφαση-σ/-Panhellenic-Socialist-Movement-(PASOK) available at: http://www.pasok.gr/portal/resource/contentObject/id/5c0aa8e0-a435-429b-bd62-d80e99a63ac1 Source: Kaminis' facebook, available at: http://www.facebook.com/kaminisG , date of access: 26.12.2010				

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
3	M. M. (FP3)	Government Gazette vol. C, no 158, 27.8.1998 (5 year mandate) Deputy Ombudswoman, Department of Health and Social Welfare	End of mandate	Lawyer, PhD in Law specialized in health and welfare issues	NGOs Member of NGOs in Greece and abroad Source: The Greek Ombudsman, Annual Report for the year 1999, Annexes, p. 331, available at: http://www.synigoros.gr/annual99/308-344.pdf , date of access: 27.12.2010 External Collaborator of NGO on issues of health and social protection Source: Official Website of the Technological Educational Foundation of Athens, available at: http://www.teiath.gr/userfiles/martsi/cv_mitrosili.pdf , date of access: 4.3.2011		Member of the Special Control Committee for the Protection of the Rights of People with Psychological Disorders (1999-2006) Source: Official Website of the Technological Educational Foundation of Athens, available at: http://www.teiath.gr/userfiles/martsi/cv_mitrosili.pdf , date of access: 4.3.2011	Expert of the European Commission in the health and welfare sector (1989-1998) Member of three legislative drafting committees at the Ministry of Health and Welfare during 1989-1998 1983 1998: Member of the Athens Bar Association, Technological Educational Foundation of Athens (Health and Welfare Education); the Medical School, Psychiatric Sector Athens University; the National School of Public Administration; the National School of Public Health; the Police Academy; University Research Institutes Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 195, available at http://www.synigoros.gr/annual01_en/en_2001.pdf , date of access, 4.3.2011	Member of the teaching staff under contract (adjunct professor) at the Department of the Administration of Health and Welfare Units of the Technological Educational Foundation of Athens (2003-2010) Member of the teaching staff under contract (adjunct professor) at the Department of Nursing, Athens University (2006-) Post-graduate Programmes: 1983- Department of Nursing; Department of Political Science and Public Administration; Department of Pedagogy (Athens University) School of Medicine, Psychiatric Sector (University of Thessaloniki) Source: The Official Website of the Technological Educational Foundation of Athens, available at: http://www.teiath.gr/userfiles/martsi/cv_mitrosili.pdf , date of access: 4.3.2011 Lawyer 2003 Source: Official Website of the Technological Educational Foundation of Athens, available at: http://www.teiath.gr/userfiles/martsi/cv_mitrosili.pdf , date of access: 4.3.2011 Assistant Professor at the Department of the Administration of Health and Welfare Units, Technological Educational Foundation of Athens (Government Gazette, vol. C, no 425, 26.5.2010)

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
3	M. M.	(FP3)						Post-graduate Programmes: 1983- Department of Nursing, Department of Political Science and Public Administration, Department of Pedagogy (Athens University) School of Medicine, Psychiatric Sector (University of Thessaloniki) Source: The Official Website of the Technological Educational Foundation of Athens, available at: http://www.teiath.gr/userfiles/martsi/cv_mitrosili.pdf , date of access: 4.3.2011	
4	I. M.	(CS4)		Architect/Planner, PhD in City Planning Director of the subsidiaries of the Mortgage Bank (National Mortgage Bank of Greece SA, Construction Mortgage EKTENEPOL) 1972-1995 Source: The Greek Ombudsman, Annual Report for the year 1999, Annexes, p. 331-332, available at: http://www.synigoros.gr/annual99/308-344.pdf , date of access: 27.12.2010				Collaborator of Prof. D. Zivas for the Plaka-Athens Historical Centre Rehabilitation Study carried out by the Ministry for the Environment, Physical Planning, and Public Works 1979-1982) ("Europa Nostra" Prize -1982) Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 195, available at http://www.synigoros.gr/annual01_en/en_2001.pdf , date of access, 4.3.2011	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
5	A. K.	(CS5) Government Gazette vol. C, no 158, 27.8.1998 (5 year mandate) Deputy Ombudswoman, Department of State-Citizen Relations	End of mandate	Director General at the Directorate General of Administrative Organisation and Procedures, Ministry of Internal Affairs, Public Administration and Decentralisation Submission of resignation from the public service due to her appointment as Deputy Ombudswoman (Government Gazette, vol. C, no 175, 17.9.1998) Legal Adviser at the Ministry of Coordination 1964-1967 Ministry of the Presidency: 1967-1998	Party affiliation (trade-unionist) Founding Member- President of the Association of the Employees of the Ministry of the Government - President of the Federation of the Employees of the Ministry of the Presidency of the Government Source: The Greek Ombudsman, Annual Report for the year 1999, Annexes, p. 332, available at: http://www.synigoros.gr/annual99/308-344.pdf , date of access: 27.12.2010		Head of the Project Management Group for the Programme "Quality for the Citizen" (Government Gazette, vol. B, no 251, 13.3.1998) Member of the Monitoring Committee of the Programme "Polity" (Politeia) constituted by the Ministry of the Interior (Government Gazette, vol. B, no 192, 20.2.2002)	Member of the teaching staff (under contract) of the National Centre for Public Administration Member of the legislative drafting committee on the elaboration of the Code of Administrative Procedures in Public Administration Greek representative in the Committee of Public Administration, Organisation for Economic Cooperation and Development (OECD) Source: The Annual Report of the Greek Ombudsman for the year 2001, Curricula Vitae of the Greek Ombudsman and the Deputy Ombudsmen, p. 196, available at http://www.synigoros.gr/annual01_en/en_2001.pdf , date of access, 4.3.2011 Member of the Working Group constituted by the Centre of Planning and Economic Research (KEPE) within the framework of the elaboration of the Five Year Programme of Economic and Social Development 1988-1992 on the study of issues related to Public Administration (no 3617/27.4.1987 Joint Ministerial Decision of the Ministers of National Economy and the Presidency of the Government and Interior)	

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5	A. K.	(CS5)						Member of the Working Group constituted by the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydemetris A., Michalopoulos, N, (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000)	
6	G. G.	(LM6)	Government Gazette vol. C, no 148, 27.6.2003 Deputy Ombudswoman, Department of the Quality of Life	Submission of resignation: Government Gazette vol. C, no 92, 11.4.2005 CS11, member of the scientific staff of the Ombudsman, was appointed to the vacant post	Lawyer specialized in Law on spatial and urban Planning, PhD in Law on urban planning	Lawyer with a salary mandate at the Ministry of Environment, Physical Planning, and Public Works (March 1989-July 2003) Source: The Greek Ombudsman, Annual Report for the year 2003, Annexes, pp 325-326, available at: http://www.synigoros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010 under suspension of duties	Member of the Management Board, representing the shareholders, of the Public Enterprise for Urban Planning and Housing – DEPOS S.A.) 5-year mandate (Government Gazette, vol. B, no 693, 6.6.2002, vol. B, no 547, 7.5.2003) The anonymous public enterprise DEPOS S.A. was abolished (Law 3895/2010).	Legal Collaborator at the Worker's Housing Organisation (1988) Member of the Scientific Council of the National Centre for Public Administration (1998-2003) Member of the teaching staff under contract at the University of Thessaly (1994-1997) and Panteion University (post-graduate programme/1999-2001), undergraduate programme (2000-2001). Member of the teaching staff under contract at the Department of Local Authorities and Regional Development of the National School for Public Administration (1999-2003) Sources: Department of Political Science and Public Administration of Athens University http://www.pspa.uoa.gr/node.php?n=0_4_13_giannakourou&lang=el , date of access: 27.12.2010 The Greek Ombudsman, Annual Report for the year 2003, Annexes, pp 325-326, available at: http://www.synigoros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010	Associate Professor of Law on Spatial Planning at the University of Thessaly Government (Gazette vol. C, no 41, 25.2.2005) Member of the Committee of Experts of the Economic and Social Committee who contributed to the study "Environment, Spatial and Urban Planning" (Government Gazette, vol. YODD, no 360, 18.8.2008) Associate Professor on the subject "Institutions and Spatial, Urban and Environmental Policies" at Athens University (Government Gazette, vol. C, no 754, 7.9.2009) President of the Management Board of the National Centre for the Environment and Sustainable Development (EKPA) 3-year mandate (Government Gazette, vol. YODD, no 35, 3.2.2010) Submission of resignation from the post of the President on 24.8.2010, and appointment as member of the management board (Government Gazette, vol. YODD, no 304, 13.9.2010)

Serial Number	Name Surname	Appointment/Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/ Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
7	G. M.	(FP7)		Government Gazette vol. C, no 148, 27.6.2003	Lawyer, Criminologist (M. Phil.-London School of Economics)	Civil Society/NGOs Founding member (1992) and member of the management board of the NGO "ARSIS-Social Organisation for the Support of Youth"			
		Deputy Ombudsman, Department of Children's rights							
		Renewal of mandate Government Gazette vol. YODD, no 204, 8.5.2008				Sources: Newspaper, To Paron, Article entitled "All the Men of the NGOs" 3.7.2005, available at: http://www.paron.gr/v3/new.php?id=4056&colid=37&catid=34&dt=2005-07-03%200:0:0 , date of access: 27.12.2010			

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
8	P. P. (FP8)	Government Gazette vol. C, no 148, 27.6.2003 Deputy Ombudswoman, Department of Department of Social Welfare	Submission of resignation due to her appointment as Assistant Professor at the Law School of Athens University: (Government Gazette vol. YODD, no 10, 14.1.2008)		Civil Society/NGOs Member of the Scientific Committee of the NGO "Union for the protection of Social Rights" founded in 2009 Source: Official Website of the NGO, available at: http://www.epkodi.gr/site/index.php/-topmenu-76/-topmenu-77/ , date of access: 4.3.2011	Lawyer (suspension of duties) PhD in Law, Source: The Greek Ombudsman, Annual Report for the year 2003, available at: http://www.synigros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010	Member of the teaching staff under contract pursuant to the Presidential Degree 407/80 at the Law School (Social Security Law) of Athens University Academic Years 2003-2004, 2004-2005, 2005-2006, 2006-2007. In October 2007 she was elected assistant professor at the law school of Athens University. Source: The Greek Ombudsman, Annual Reports for the years 2003, 2004, 2005, and 2006 available at: http://www.synigros.gr/annual03/10pararthmata.pdf , http://new.synigros.gr/resources/docs/618_09-pararthmata-bios.pdf , http://new.synigros.gr/resources/docs/634_10-pararthmata-bs.pdf , http://new.synigros.gr/resources/docs/17_annual_p_biografia_06.pdf date of access: 27.12.2010 Member of the Working Group for the review and approval of Balance-Sheet reports of the former uses of Social Security Organisations and processing of the Chartered Accountants' reports over these uses in order to be communicated to the President of the Hellenic Parliament in accordance with the law 2084/1992 (Government Gazette, vol. B', no 387, 2.4.2003)	Special Adviser of the Deputy Minister of Labour and Social Security Source: The Greek Ombudsman, Annual Report for the year 2003, Annexes, p. 325, available at: http://www.synigros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010 Member of the Working Group for the review and approval of Balance-Sheet reports of the former uses of Social Security Organisations and processing of the Chartered Accountants' reports over these uses in order to be communicated to the President of the Hellenic Parliament in accordance with the law 2084/1992 (Government Gazette, vol. B', no 387, 2.4.2003)	Associate Professor of Public Law emphasizing on Social Security Law at Athens University (Government Gazette vol. C, no 1161, 29.12.2008)

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
9	K. S. (U9)	Government Gazette vol. C, no 148, 27.6.2003 Deputy Ombudswoman, Department of State-Citizen Relations Renewal of mandate Government Gazette vol. YODD, no 204, 8.5.2008 Alternate Ombudswoman (September 2010-May 2011) The Greek Ombudswoman (May 2011-20.02.2012) Government Gazette, vol. YODD, no 155, 2.6.2011.				Associate Professor of Administrative Science at the Department of Political Science and Public Administration, Athens University (Government Gazette, vol. NPDD, no 119, 11.6.2001) [She was elected Professor in 2006, Government Gazette, vol. C, no 497, 20.12.2006)	Member of the Central Committee for the Simplification of Procedures representing the institution of the Ombudsman (Government Gazette, vol. B, no 1431, 17.9.2004) Member of the Committee constituted by the Supreme Council for the Selection of Personnel for the examination of the Special Written Test-Test of General Knowledge and Skills (Government Gazette, vol. YODD, no 244, 10.6.2009)	Member of the Working Group constituted by the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydimitris A., Michalopoulos, N. (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000) Advisor of Studies at the National Centre for Public Administration (1989-1991) Member of the teaching staff under contract of the National School of Public Administration Member of the Management Board of the National Centre for Public Administration Advisor of the OECD (1988) Source: Source: The Greek Ombudsman, Annual Report for the year 2003, Annexes, p. 327, available at: http://www.synigoros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010	She assumed the duties of Substitute Ombudswoman after the resignation of Georgios Kaminis from the post of the Ombudsman which was published in the Government Gazette, vol. YODD, no 333, 13.10.2010. She issued an announcement, dated September 15, 2010, stating that the resigned Ombudsman "is legally substituted by the Deputy Ombudswoman, Mrs Kalliope Spanou". Source Available at: http://www.synigoros.gr/pdf_01/8748_1_DELTIO_TYPOU_DIEYKRINISTI_KO.pdf , date of access: 27.12.2010. However, in our opinion, the procedure of the substitution is/was irregular according to article 2 of the Law 3094/2003 (Government Gazette, vol. A', no 10, 22.1.2003) which reads as follows: "The Ombudsman may be replaced when absent or temporarily unable to perform his duties for whatever reason. The Ombudsman shall appoint one of the Deputy Ombudsmen as his substitute". Moreover, Article 2, par. 3, verse 2 of Law 3094/2003 (Government Gazette, vol. A', no 10, 22.1.2003) reads as follows: "The end of the Ombudsman's mandate, for whatever reason, shall ipso iure/by right bring the end of the

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
9	K. S.	(U9)						Member of the Management Board of the National Centre for the Environment and Sustainable Development (Government Gazette, vol. A, no 44, 9.3.2001) Submission of resignation on 2.4.2003 (Government Gazette, vol. A, no 211, 2.9.2003)	Deputy Ombudsmen's term of office, who shall continue to perform their duties until the appointment of the new Deputy Ombudsmen and in any case, not later than three months following the appointment of the new Ombudsman" She was finally selected as the Greek Ombudswoman by the Conference of Presidents in May 2011. She was appointed for the remainder of the mandate of the resigned Ombudman U2, that is 20.2.2012. Source: The Official Website of the Greek Ombudsman, available at: http://new.synigoros.gr/?l=stp.el.synigoros , date of access: 14.6.2011
10	A. T.	(CS10)	Government Gazette vol. C, no 148, 27.06.2003)	Submission of resignation from the post of the Deputy Ombudsman "for personal reasons" as stated in the Government Gazette (Government Gazette, vol. YODD, no 528, 16.12.2009). Suspension of duties from the post of the scientific staff of the Greek Ombudsman. He was appointed Secretary General for Migration Policy	Civil Society and NGOs Member of the NGO: Research Centre for Minority Groups (KEMO), Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 25.12.2010	Since December 1998 member of the Scientific Staff (Senior Investigator) of the Greek Ombudsman, Department for Human Rights under suspension of duties He obtained his PhD in 2006. Source: The Greek Ombudsman, Annual Report for the year 2006, p. 358, available at: http://www.synigoros.gr/pdfs/annual_06_pdfs/annual_p_biografika_06.pdf , date of access: 27.12.2010	Ex officio alternate member of the National Committee for Human Rights representing the institution of the Greek Ombudsman (Government Gazette, vol. B, no 1268, 4.9.2003, vol. B, no 322, 16.3.2006, vol. YODD, no 108, 13.3.2009)	Lawyer, Expert Legal Adviser at the Political Bureau of the Minister of the Press and Mass Media (24.6.1996-1998) (Government Gazette, vol. C, no 126, 28.6.1996) Expert Collaborator for the Council Of Europe on matters of institutional guarantees for the protection of human rights. Source: The Greek Ombudsman, Annual Report for the year 2003, Annexes, p. 324, available at: http://www.synigoros.gr/annual03/10pararthmata.pdf , date of access: 27.12.2010	Revocable Secretary General for Migration Policy at the Ministry of the Interior, Decentralization and Electronic Governance, (Government Gazette, vol. YODD, no 92, 16.3.2010) Ex officio member of the National Committee for Human Rights representing the Ministry of the Interior, Decentralization and Electronic Governance (Government Gazette, vol. YODD, no 231, 1.7.2010) Assistant Professor at the Aristotle University of Thessaloniki (Government Gazette, vol. C, no 1252, 31.12.2010)

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11	C. C.	(CS11)	Government Gazette vol. C, no 135, 1.6.2005	Submission of resignation from the post of the Deputy Ombudsman "for personal reasons" as stated in the Government Gazette (Government Gazette, vol. YODD, no 470, 29.10.2009)	Civil Society-NGOs	Since 1999 member of the Scientific Staff of the Greek Ombudsman – Under suspension of duties	Member of the Committee constituted by the Ministry of Employment and Social Protection – representing the Greek Ombudsman - regarding the harmonization of the national legislation with the provisions of the directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions Deadline for the end of the work of the Committee: 31.12.2005 (Government Gazette vol. B, no 764, 7.6.2005) Member of the legislative drafting Committee – representing the Greek Ombudsman- constituted by the Ministry of Employment and Social Protection regarding the transposition of the Directive 2006/54/EC of the European Council and of Parliament of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation into Greek legislation (Government Gazette, vol. YODD, no 445, 16.10.2007)	Special Collaborator of the Secretary General of the Ministry of Justice (1994-1995), Special Collaborator of the Minister of Development (Vassiliki Papandreou served as Minister of Development from 22.1.1996 until 18.2.1999) Special Collaborator of the Minister of the Interior (Vassiliki Papandreou served as Minister of the Interior, Public Administration and Decentralisation from 19.2.1999 until 19.3.2000) (1996-1999) Member of the legislative drafting committee on the executive law of the constitution 3051/2002 on the constitutionally consolidated independent authorities Source: The Greek Ombudsman, Annual Report for the year 2005, Annexes, p. 318, available at: http://www.synigoros.gr/annual_05/10_parartima_bs.pdf , date of access: 28.12.2010	She was appointed on secondment, as revocable employee, to the post of the Director of the Political Bureau of the Minister of Economics. (Government Gazette, vol. YODD, no 482, 16.11.2009) Suspension of duties from the post of the scientific staff of the Greek Ombudsman. Member of the State Lottery Administration Committee (art. 93 of the Presidential Decree 284/1988) Two year mandate (1.1.2010-31.12.2011) (Government Gazette, vol. YODD, no 4, 12.1.2010) Non Executive member of the Management Board of the Organisation of Football Prognostics S.A. (OPAP SA)* End of Mandate: 30.6.2014 (Government Gazette, vol. AE-EPE, no 458, 21.1.2010)

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12 S. G. (CS12)		Government Gazette, vol. YODD, no 204, 8.5.2008 Deputy Ombudswoman, Department of Gender Equality				Scientific Collaborator of the Economic and Social Committee, Lawyer, PhD in Labor Law. Under suspension of duties	Member of the Committee constituted at the Central Service of the Ministry of Employment and Social Protection regarding the consideration of the ratification of the Revised European Social Charter The work of the Committee will have to be completed in 50 sessions by 31.12.2008 (Government Gazette, vol. YODD, no 213, 15.5.2008) Member of the Special Legislative Drafting Committee constituted by the Ministry of Justice regarding the elaboration of a draft law on the substantial gender equality. The Committee should complete its work within nine months (Government Gazette, vol. YODD, no 270, 4.8.2010)	Special Collaborator of the Secretary General for Equality Source: (Government Gazette, vol. B, no 764, 7.6.2005) The Official Website of the General Secretariat for Equality, Perikioni Network, available at: http://www.gsrt.gr/default.asp?V_ITEM_ID=5001 , date of access, 6.3.2011 Member of the Committee constituted at the Central Service of the Ministry of Employment and Social Protection regarding the harmonization of national legislation with the provisions of the directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
12	S. G.	(CS12)						the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions Deadline of the work of the committee: 31.12.2005 (Government Gazette vol. B, no 764, 7.6.2005) Member of the legislative drafting Committee constituted at the Central Service of the Ministry of Employment and Social Protection regarding the transposition of the Directive 2006/54/EC of the European Council and of Parliament of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation into Greek legislation (Government Gazette, vol. YODD, no 445, 16.10.2007)	
13	I. S.	(U13)					Professor of Economics of Labor and Social Policy at the Department of Social Anthropology Panteion University, of Social and Political Sciences	Member of the Working Group on the labor market and social security: determining the age structure of the insured and long-term prospects The work of the group should be terminated by the end of March 2000 (Government Gazette, vol. B, no 180, 17.2.2000) Member of the Expert Committee on the reform of the social security system (Government Gazette, vol. B, no 773, 19.6.2001)	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
13	I. S.	(U13)						Director of the Institute for Social Policy of the National Centre for Social Research (EKKE) 5 year mandate (Government Gazette, vol. NPDD, no 181, 10.8.2001)	
14	V. K.	(U14)	Government Gazette vol. YODD, no 19, 22.1.2010 He was appointed to the vacant post of the Deputy Ombudsman after the resignation of CS10 Deputy Ombudsman, Department of Human Rights			Associate Professor of Criminology (subject: Social Control and State Power) at the Department of Social and Educational Policy, University of Peloponnese (Government Gazette, vol. NPDD, no 200, vol. 17.8.2005)	Alternate Member of the Management Board of the Society for the Protection of Minors of Corinth Three year mandate (Government Gazette, vol. YODD, no 510, 10.12.2008) Ex officio alternate member of the National Committee for Human Rights representing the institution of the Greek Ombudsman (Government Gazette, vol. YODD, no 231, 1.7.2010)	Lawyer Defense Lawyer of the Terrorist D. Koufoudinas at the trial of the terrorist organization "November 17th" Source, Newspaper Rizospastis, Friday, October 3, 2003, available at: http://www2.rizospastis.gr/wwwengi/ne/story.do?id=1981673&publDate= , date of access, 10.1.2011 Promoted to the tenured position of Assistant Professor at the Democriteion University of Thrace (Government Gazette, vol. NPDD, no 67, 30.3.2001) Alternate Member of the Central Scientific Council of Prisons (KESF) Three year mandate (Government Gazette, vol. B, no 225, 28.2.2000)	

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14	V. K.	(U14)						<p>Alternate Member of the Management Board of the Organisation against Drugs (OKANA)</p> <p>Three year mandate (Government Gazette, vol. B, no 1711, 20.12.2001)</p> <p>He submitted his resignation (Government Gazette, vol. B, no 763, 24.5.2004)</p> <p>Member of the Project Management Team constituted by the Ministries of the Interior and Public Order for the formulation of a framework of action for a policy against crime with mid-term and long-term targets.</p> <p>The work of the Team should be completed within 2 years with a maximum number of 50 sessions per year (Government Gazette, vol. B, no 49, 23.1.2002)</p> <p>The work of the Team will be extended for one more year (Government Gazette, vol. B, no 179, 30.1.2004)</p> <p>Member of the permanent Legislative Drafting Committee of the Ministry of Public Order</p> <p>Two year mandate (Government Gazette, vol. B, no 610, 17.5.2002)</p>	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
15 E. B. (CS15)		Government Gazette vol. YODD, no 505, 1.12.2009 She was appointed to the vacant post of the Deputy Ombudswoman after the resignation of CS11 Deputy Ombudswoman, Department of the Quality of Life		Rural and Surveying Engineer, MSc in Urban and Regional Planning Executive officer at the Directorate of the Technical Services of the National Bank of Greece (1996-2008) Director and Head of the Regional Centre of the Cadastre SA in Thessaloniki, (April 2008 until her appointment as Deputy Ombudswoman) Source: Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/org_pz_head.htm , date of access: 30.4.2010				Member of the Management Board of the National Centre for the Environment and Sustainable Development (2005-2006) (Government Gazette, vol. A, no 51, 28.2.2005) Submission of resignation on 2.2.2006 (Government Gazette, vol. A, 45, 2.3.2006) Member of the Management Board of the Hellenic Mapping and Cadastral Organisation (OKXE), (2006-2007) (Government Gazette, vol. YODD, no 12, 15.9.2006) Member of the Management Board of the Cadastre SA (2006-2007) Source: Official Website of the Greek Ombudsman, available at: http://www.synigoros.gr/org_pz_head.htm , date of access: 30.4.2010	

APPENDIX 4

Career Paths of the Members of the Hellenic Authority for Communication, Security, and Privacy

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
1	A. L.	(FP1) Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) President Renewal of mandate (Government Gazette vol. YODD, no 256, 12.6.2008)		Mechanical-Electrical Engineer				President of the Management Board of the Hellenic Railways Organisation (OSE) 1981-1985 and 1987-1989 Governor of the Hellenic Railways Organisation (OSE) 1981-1985 Director General of the Hellenic Railways Organisation (OSE) 1985-1988 Source: Prodromos Mantzaridis, Brief History of the Greek Railways, Second Edition, Greek Railways Organisation, 1996 President of the Management Board of the Hellenic Telecommunications and Post Commission (5 year mandate) (Government Gazette, vol. B', no 29, 19.1.1995) Submission of resignation: 8.5.2000 (Government Gazette, vol. B, no 669, 30.5.2000)	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
1	A. L.	(FP1)						President of the Management Board of the Hellenic Railways Organisation (OSE) Mandate: 26.6.2000-30.1.2003 Appointment by the no 39930/4298/26.6.2000 Joint Ministerial Decision of the Ministers of National Economy and Economics and Transports and Communications (direct appointment without the submission of the relevant report by the Committee of Public Enterprises, Banks and Public Utilities of the Greek Parliament) after the resignation of N. Gratsias from the post of the President of the Management Board on June 23, 2000 and for the rest of his mandate: Government Gazette, vol. B, no 788, 26.6.2000. Revocation of the appointment (Government Gazette, vol. B, no 820, 5.7.2000) Reappointment after the communication of the relevant report of the Parliamentary Committee (no 1735/11.7.2000) (Government Gazette, vol. B, no 859, 12.7.2000)	

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2	V. K. (CS2)	Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Vice-President	End of mandate, not renewed. J4 filled the vacant post of the Vice-President (Government Gazette, vol. YODD, no 256, 12.6.2008)	Former alternate General Director of the Greek Telecommunications Organisation (OTE) (He was defendant in the case of 57.4 million loss of OTE from Siemens and a subsequent benefit for Siemens estimated around 632 million euros regarding the implementation of the Contract 8002 of the year 1997 for the digitization of the telephone network. The fourth special investigator, Nikos Zagorianos, charged Koutris and nine former executives of OTE with the offences of passive corruption and money laundering)					
3	P. G. (FP3)	Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Alternate Vice-President	Submission of resignation, April 21, 2004 Annual Report 2004, http://www.adae.gr/portal/fileadmin/docs/pepragmena/2004/KEFAL1.pdf , date of access: 12.1.2011 The post will be filled by U14 in 2007.				He ran for Mayor in the Municipal Elections of 2002. He was supported by the party of PASOK. He was elected Municipal Counselor. Sources: Official Website of the Ministry of the Interior, available at: http://www.ypes.gr/el/Elections/CityElections/ResultsofElections/2002/ , date of access: 19.1.2011 Personal Website of P. Gretzelias: http://www.gretzelias.gr/default.asp?ElementName=Bio , date of access: 19.1.2011	He was elected Mayor of the Municipality of Nea Philadelphia (suburb of Athens) three times and served from 1990 until 2002 supported by the party of PASOK. Official Website of the Ministry of the Interior, available at: http://www.ypes.gr/el/Elections/CityElections/ResultsofElections/1998/ , date of access: 19.1.2011 Member of the Management Board of the Anonymous Company under the name "Athletic Union of Constantinople, Anonymous Football Company" (1995-1996) (Government Gazette, vol. TAE-EPE, no 7184, 20.12.1995, no 2304, 28.5.1996)	He ran for Mayor in the Municipal Elections of 2006. He was supported by the party of PASOK. He was elected Municipal Counselor. Sources: Ministry of the Interior, available at: http://ekloges-prev.singularlogic.eu/2006static/dimos133.htm , The official website of the Municipality of Philadelphia, available at: http://www.filadelfia-dimos.gr/Default.aspx?pid=124&la=1 , date of access: 19.1.2011 He was elected Municipal Counselor of the Municipality of Philadelphia-Chalkidona in the Municipal and Regional Elections of 2010. He was elected President of the Municipal Council Sources: Infoblog, available at: http://www.infoblog.gr/?p=51092 , http://filadelfia-xalkidona.blogspot.com/2011/01/blog-post_02.html date of access: 19.1.2011

Serial Number	Name Surname	Appointment/Position in the Authority	Retirement	Previous Position/Title	Party Affiliation/NGOs/ Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
3	P. G.	(FP3)						Member of the Management Board of the Anonymous Company under the name "Athletic Union of Constantinople, Anonymous Football Company*" (2000-2001) (Government Gazette, vol. AE-EPE, no 2174, 22.3.2000, no 2301, 24.4.2001) Submission of resignation: 11.7.2001 (Government Gazette, no 8165, 17.9.2001)	
4	M. K.	(J4)		Former Judge of the Hellenic Supreme Court of Civil and Penal Law				*(more commonly referred to as AEK or in European competitions as AEK Athens. The Sports Club was founded by Greek refugees from Constantinople in April 13, 1924). Alternate Member of the Council for Citizenship constituted by the Ministry of the Interior, Public Administration, and Decentralization 2 year mandate: 1.1.1994-31.12.1995) (Government Gazette, vol. B, no 61, 31.1.1994) Renewal of mandate 1.1.1996-31.12.1997) (Government Gazette, vol. B, no 184, 20.3.1996)	
		Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate) Regular Member Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007) Renewal of mandate as Vice-President to fill the vacant post of Vassilis Koutris's whose appointment was not renewed (Government Gazette vol. YODD, no 256, 12.6.2008)							

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5 D. D. (J5)		Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate) Alternate Member of J4 Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007) 4 year mandate Active member until the expiration of his mandate in 2011 (Government Gazette, vol. YODD, no 256, 12.6.2008)	Submission of resignation. FP18 was appointed to the vacant post (Government Gazette, vol. YODD, no 370, 28.8.2008)	Honorary Counselor of the Court of Audit He retired from the public service on 1.7.2003 (pension) (Government Gazette, vol. C, no 162, 11.7.2003)				Member of the Committee for the procurement of goods of significant financial or technological value. The Committee was competent for the procurement of railcars for the Greek Railways Organisation (Government Gazette, vol. A, no 221, 13.10.2000)	
6 C. K. (U6)		Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Regular Member Renewal of mandate (Government Gazette, vol. YODD, no 256, 12.6.2008) 4 year mandate			He was elected Alternate President at the Department of Electrical and Computer Engineering of the National Technical University of Athens (NTUA) Mandate: 1.9.2004-31.8.2006 (Government Gazette, vol. NPDD, no 189, 16.8.2004) Submission of resignation on 25.10.2005 (Government Gazette, vol. NPDD, no 9, 17.1.2006)	Professor at the National Technical University of Athens, School of Electrical and Computer Engineering		Member of the Committee on the study and recommendation on issues of the Directorate of the Code of Accounting Books and Records at the Ministry of Finance Duration of work: six months (Government Gazette, vol. B, no 163, 6.3.1997, vol. B, no 172, 11.3.1997)	
							Ex officio alternate member of the Management Board of the Student Club of the National Technical University of Athens (Government Gazette, vol. NPDD, no 246, 3.10.2005)		

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6	C. K.	(U6)					<p>Regular Member of the National Council for Research and Technology (E.S.E.T.) in the field of Informatics, Telecommunications, Systems (Government Gazette, vol. B, no 19, 13.1.2005)</p> <p>Member of the Committee constituted by the Ministry of Finance and Economics for the specification and revision of the technical standards of the tax electronic mechanisms and systems and their implementation for the assurance of tax data of the Code of Accounting Books and Records (Government Gazette, vol. B, no 506, 20.4.2006)</p>	<p>Member of the Committee on the study, preparation and recommendation of standards on special Public finance systems for the buffering of data during the issue of computerized information at the Ministry of Finance (Government Gazette, vol. B, no 557, 4.6.1998)</p> <p>Member of the Committee for the revision of the technical standards of Cash Machines and Systems (Ministry of Finance) (Government Gazette, vol. B, no 1171, 11.11.1998)</p> <p>Member of the Committee at the Ministry of Finance for the study on the improvement, specification, adaptation, and revision of the existing technical standards of the Fiscal Cash Registers and the introduction of new ones, to deal with the current needs, and the expansion of the use of Fiscal Cash Registers, special taxation mechanisms and public finance Processing Units to other forms of transactions (electronic games, vending machines, taxi meters, gasoline pumps etc) (Government Gazette, vol. B, no 255, 28.2.2002)</p>	

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6	C. K.	(U6)					<p>Regular Member of the Committee constituted by the Ministry of Transport and Communications to conduct the open tender for the selection of a contractor who will undertake the implementation of the project: "DORY-Development of infrastructure for the initial service needs of the Bodies of the Public Sector situated in remote areas for advanced communication technologies with the use of the Public Satellite System Hellas-Sat (Budget: 9.256.000 E (including VAT) (Government Gazette, vol. YODD, no 80, 16.11.2006)</p> <p>Alternate President of the Committee constituted to conduct the open tender for the selection of a contractor who will undertake the implementation of the project: "Provision of consultancy Services for the development of a National Strategy in the field of Electronic Communications for the period 2007-2013" Budget: 952.000 E (including VAT) (Government Gazette, vol. YODD no 76 27 2 2007) Member of the Committee constituted by joint ministerial decision by the Minister of Transport and Communications and the Minister of State for the organization, processing, and control of the parameters and preconditions for the release of frequencies by geographical region End of the work: 30.12.2007 (Government Gazette, vol. 531, 14.12.2007)</p>		

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6	C. K.	(U6)					Member of the Special Legislative Drafting Committee for the strengthening of the institutional framework of the functioning of the Hellenic Authority for Communication, Security and Privacy and the amendment of the law 3115/2003 (Government Gazette, vol. YODD, no 529, 17.12.2009)		
7	G. S.	(U7)	Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Alternate Member of U6	His mandate expired on 31.7.2007, and he denied its renewal. Source: Annual Reports for the year 2007, available at: http://www.adae.gr/portal/index.php?id=44 , date of access: 20.1.2011		Professor at the National Technical University of Athens, School of Electrical and Computer Engineering		Member of the Committee for the Study and Assessment of the potential of the implementation of the Instant State Lottery by the interested enterprises participating at the open tender for the appointment of a contractor who will undertake the implementation of the new Instant State Lottery Duration of work: 20 sessions (Government Gazette, vol. B, no 757, 31.12.1992) Member of the Extraordinary Special Committee for the selection of a contractor for the "Provision of services in human resources and means for the spread of the Demand Management System for Health Services to fifty (50) additional Health Care Units (Government Gazette, vol. B, no 1048, 9.8.2002)	

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8 I. V. (U8)		Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate) Regular Member Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007) Active member until the expiration of his mandate in 2011 (Government Gazette, vol. YODD, no 256, 12.6.2008)				Professor at the National Technical University of Athens, School of Electrical and Computer Engineering (Government Gazette, vol. NPDD, no 166, 16.7.2004) [Associate Professor at the National Technical University of Athens, School of Electrical and Computer Engineering (Government Gazette, vol. NPDD, no 161, 28.6.2000)]	President of the Project Management Group for the Strategic Planning of the implementation of the Operational Programme of the Ministry of Justice for Information Society (Government Gazette, vol. B, no 1205, 5.8.2004)		
9 C. D. (U9)		Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate) Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007) Alternate Member of U8 Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007)	End of mandate-New appointments (Government Gazette, vol. YODD, no 256, 12.6.2008)			Associate Professor at the Department of Informatics, University of Piraeus (Government Gazette, vol. NPDD, no 239, 22.10.2002) [Professor at the University of Piraeus (Government Gazette, vol. C, no 375, 22.4.2008)]	Member of the Advisory Committee for the formulation of recommendations over the proposals submitted under the framework of the Call 93 of the Measure 4.2 "Development of Infrastructures of Local Access Networks", Operational Programme "Information Society" co-funded by the European Union Duration of the work: three months (Government Gazette, vol. B, no 1421, 16.9.2004)	Member of the Special Committee for the Procurements of the Agricultural Insurance Organisation (OGA) for the year 2001 (Government Gazette, vol. B, no 1269, 2.10.2001)	President of the Management Board of the public anonymous company under the name "Electronic Governance of Social Security (IDIKA S.A.) No fixed mandate. The appointment may be revoked by joint ministerial decision (Government Gazette, vol. YODD, no 174, 21.4.2008) Revocation of the appointment by the joint ministerial decision no Φ.80350/18707/135 (Government Gazette, vol. YODD, no 241, 13.7.2010)

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9	C. D.	(U9)					<p>Alternate Member of the Extraordinary Committee for the technical assessment of the bids of the open tender, Call for proposals 21/2006, for the "Development of the General Commercial Registry (GEMI), of the Ministry of Development, General Secretariat of Commerce Duration of the work: two months (Government Gazette, vol. B, no 701/7.6.2006)</p> <p>Member of the Executive Committee of the National Council for Electronic Commerce (Government Gazette, vol. 982, 25.7.2006)</p> <p>Regular Member of the Extraordinary Committee for the technical assessment of the bids of the open tender, Call for proposals 22/2006, for the "Development of the National System of Electronic Public Procurement (E.S.I.D.P.), of the Ministry of Development, General Secretariat of Commerce Duration of the work: three months (Government Gazette, vol. B, no 700/7.6.2006) Reconstitution of the Committee for the reassessment of complaints (Government Gazette, vol. YODD, no 561, 31.12.2007)</p> <p>Member of the National Council of Electronic Commerce (e-Commerce) (Government Gazette, vol. B, no 890, 12.7.2006)</p>	<p>Member of the extraordinary Committee for the assessment of the results of the International Competition for the Study and Construction of a Fire Alarm System in the prefecture of Lakonia (Budget of the project: 4.000.000 E, Vat included) Duration of the work: four months starting from 11.2.2009 No Γ.Ν/62 Decision of the Prefect of Lakonia (Government Gazette, vol. YODD 103, 11.3.2009)</p>	

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9	C. D.	(U9)					Member of the Management Board of the Research Academic Computer Technology Institute (Government Gazette, vol. C, no 484, 14.12.2006)		
							President of the Committee for the conduct of the open tender for the selection of the contractor who will undertake the implementation of the project: "Integrated Information System (OPS)" of the General Secretariat of Communications (Call for proposals no 2.2007) Duration of the work: three working days (Government Gazette, vol. YODD, no 108, 14.3.2007)		
10	S. S.	(FP10)	Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate)	Lawyer	Party affiliation				
			Regular Member		He signed, together with a group of lawyers of Athens, the Declaration of Support to the Greek Communist Party in the National Elections of 2007 The list of signatories was published in the Newspaper Rizospastis in the issue of August 5, 2007				
			Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007)		Source: Newspaper Rizospastis, available at: http://www1.rizospastis.gr/wwwengine/story.do?id=4155329 , date of access: 17.5.2010				
			Active member until the expiration of his mandate in 2011 (Government Gazette, vol. YODD, no 256, 12.6.2008)						

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11	A. K.	(FP11) Government Gazette vol. B, no 1072, 1.8.2003 (2 year mandate) Alternate Member of FP10 Renewal of mandate (Government Gazette, vol. YODD, no 152, 13.4.2007) Active member until the expiration of his mandate in 2011 (Government Gazette, vol. YODD, no 256, 12.6.2008)		Lawyer	Party Affiliation She ran for Prefectural Counselor in the Prefectural Department of Athens with the Communist Party of Greece in the Municipal and Prefectural Elections of 1998 Source: Newspaper Rizospastis*, available at: http://www2.rizospastis.gr/wwwengine/story.do?id=3741391 , date of access: 17.5.2010 *Organ of the Central Committee of the Communist Party of Greece				

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11	A. K.	(FP11)			She signed, together with a group of lawyers of Athens, the Declaration of Support to the Communist Party in the National Elections of 2007 The list of signatories was published in the Newspaper Rizospastis in the issue of August 5, 2007 Source: Newspaper Rizospastis, available at: http://www1.rizospastis.gr/wwwengine/story.do?id=4155329 , date of access: 17.5.2010				

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11	A. K.	(FP11)			NGO Member of the Chair of the Greek Women Federation (OGE). Source: Newspaper Rizospastis*, available at: http://www2.rizospastis.gr/wwwengine/story.do?id=3741391 , date of access: 17.5.2010 OGE was founded in 1976 and has a communist ideological orientation since "it is the only Women's Organisation promoting the class character of women's inequality" Source: OGE, available at: http://www.oge.gr/index.php?option=com_content&view=article&id=46&Itemid=34 , date of access: 20.1.2011				

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12 K. M. (CS12)		Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Regular Member Renewal of mandate (Government Gazette vol. YODD, no 256, 12.6.2008 (4 year mandate)		Former Director of OTE (Hellenic Telecommunications Organisation)				Chief Executive Officer (CEO) of the anonymous company under the name "Anonymous Greek Company for the provision of internet products and services" with the distinctive title "OTEnet*" (subsidiary company of the Hellenic Telecommunications Organisation) (1998-1999) (Government Gazette, vol. AE-EPE, no 6211, 30.7.1998) *The Company is supervised by the Ministry of Infrastructure, Transport and Networks Source: Official Website of the Ministry, available at: http://www.yme.gr/index.php?tid=489 , date of access: 20.1.2011	
13 K. V. (CS13)		Government Gazette vol. B, no 1072, 1.8.2003 (4 year mandate) Alternate Member of CS12 Renewal of mandate (Government Gazette, vol. YODD, no 256, 12.6.2008)		Former Director of OTE (Hellenic Telecommunications Organisation)					
14 D. V. (U14)		Government Gazette vol. YODD, no 336, 6.8.2007 (4 year mandate) He was appointed to the vacant post of Alternate Vice-President three years after the resignation of FP3 Alternate Vice-President Active member until the expiration of his mandate in 2011 (Government Gazette, vol. YODD, no 256, 12.6.2008)				Lecturer at the Department of Informatics and Telecommunications, Athens University (Government Gazette, vol. NPDD, no 195, 9.9.2005)		Civil Servant with a term of office (indefinite duration contract civil servants under private law/of indefinite duration) with Specialty in Informatics at Athens University – Member of the administrative staff (Government Gazette, vol. NPDD, no 94, 30.4.2002) Member of the Teaching Staff under contract pursuant to the Presidential Decree 407/80 at Athens University (2002-2005)	

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14	D. V.	(U14)						<p>Member of the Teaching Staff under contract pursuant to the Presidential Decree 407/80 (adjunct professor) at the University of Peloponnese (2002-2005)</p> <p>Sources: Official website of Athens University, available at: http://www.di.uoa.gr/gr/dep_detail.php?GetWhat=43, date of access: 19.1.2011</p> <p>Personal Website, available at: http://cgi.di.uoa.gr/~arkas/, date of access: 19.1.2011</p> <p>Indirect information (Government Gazette, vol. B, no 1421, 16.9.2004)</p> <p>Member of the Advisory Committee for the formulation of recommendations over the proposals submitted under the framework of the Call 93 of the Measure 4.2 "Development of Infrastructures of Local Access Networks", Operational Programme "Information Society" co-funded by the European Union</p> <p>Duration of the work: three months (Government Gazette, vol. B, no 1421, 16.9.2004)</p>	

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14 D. V. (U14)								President of the Committee for the conduct of the no 151.320/INFSOC697/27.1.2006 International Open Tender for the project: "Technical and Managerial Support regarding the monitoring and control of the actions of the Operational Programme "Information Society" (Government Gazette, vol. B, 374, 28.3.2006)	
15 N. N. (CS15)		Government Gazette, vol. YODD, no 256, 12.6.2008 (4 year mandate) Alternate Member of U6		Former Director of OTE (Hellenic Telecommunications Organisation)				Member of the Committee constituted by the Ministry of Economy and Finance for the conduct of a public open tender and assessment of the bids for the implementation of the Customs Electronic Services ICISnet (Government Gazette, vol. B, no 374, 28.3.2006) Member of the Management Board of the Greek Company of Telecommunications through Submarine Cables SA (ELLTELKA)* (subsidiary company of the Hellenic Telecommunications Organisation) (1994- (Government Gazette, vol. TAE-EPE, no 1578, 22.3.1999, vol. TAE-EPE, no 1654, 24.3.1999) *The Company is supervised by the Ministry of Infrastructure, Transport and Networks Source: Official Website of the Ministry, available at: http://www.yme.gr/index.php?tid=489 , date of access: 20.1.2011	

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16	S. K. (U16)	Government Gazette, vol. YODD, no 256, 12.6.2008 (4 year mandate) Regular Member	Submission of resignation on 18.11.2009 after his appointment as Secretary General at the Ministry of Infrastructures, Transports, and Networks (Government Gazette, vol. YODD, no 492, 19.11.2009) Source: Annual Report of ADAE for the year 2009, available at: http://www.adae.gr/portal/fileadmin/docs/pepragmena/2009/Pepragmena%202009.pdf , date of access, 15.1.2011		Party affiliation On 25.11.2007, by decision (25.11.2007) of the President of PASOK, Georgios Papandreou, he was appointed Member of the Working Group of Scientists of the Secretariat of the Central Organisational Committee for the preparation of the 8th Conference of PASOK that took place on March 13-16, 2008. Sources: PASOK-France, available at: http://ne.pasok.gr/negallias/?p=13 , date of access: 17.6.2010	Professor at the Department of Technology Education and Digital Systems, University of Piraeus [Transfer from the University of the Aegean to the University of Piraeus in 2007 (Government Gazette, vol. C, no 294, 2.5.2007)]	Member of the Special Legislative Drafting Committee for the strengthening the institutional framework on the functioning of the Hellenic Authority for Communication, Security and Privacy (ADAE) and the amendment of the law 3115/2003 (Government Gazette, vol. YODD, no 389, 4.9.2009) He was replaced by Christos Kapsalis (Government Gazette, vol. YODD, no 529, 17.12.2009)	Member of the Monitoring Committee of the Programme "POLITEIA-(Polity)" at the Ministry of National Education and Religious Affairs (2002-2003) (Government Gazette, vol. B, no 503, 24.4.2002, vol. B, no 694, 3.6.2003)	Revocable Secretary General-Head of the General Secretariat of Communications at the Ministry of Infrastructures, Transports and Networks (Government Gazette, vol. YODD, no 492, 19.11.2009)
					Alternate member of the Committee for the procurement of goods of important economic or technological value representing the party of PASOK in the Committee. He was proposed			President of the Working Group constituted at the General Secretariat of Social Security of the Ministry of Labor and Social Security within the framework of the operational programme "Information Society" (2003-2004) (Government Gazette, vol. B, no 481, 21.4.2003, vol. B, no 1509, 7.10.2004)	

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16	S. K.	(U16)			by the President of PASOK following the document 122a/10.7.2000 (G.G. vol. A, no 221, 13.10.2000). The committee was competent for the procurement of radiocommunications at the Greek Police.			Member of the Committee for the assessment of the proposals submitted by the Greek Universities within the framework of the call for the expression of interest (reg. no 16119/23.9.2004) "Laboratory Scientific Equipment of the Departments of Higher Education" within the framework of the Action 5.2.7 co-funded by the European Union through EPEAEK II (EPEAEK stands for: Operational Programme for Education and Initial Vocational Training) Duration of the work: 20.4.2005-30.5.2005) (Government Gazette, vol. B, no 667, 18.5.2005)	
					He was elected Vice-Rector of the University of the Aegean (3 year mandate: 1.9.2000-31.8.2003) (Government Gazette, vol. NPDD, no 170, 7.7.2000)			President of the Committee of Informatics for the assessment of the proposals of the Greek Universities submitted within the framework of the call (reg. no 14173/6.8.2004) for the Acts 2.2.3.xi "Enhancement of Research Groups in Universities", 2.6.1.xiii "Enhancement of Research Groups in Universities on issues pertaining to the environment and ecology" and 4.2.e1 "Enhancement of Research Groups in Universities on issues of gender and equality" co-funded by the European Union through EPEAEK (Government Gazette, vol. B, no 723, 30.5.2005)	
					He was elected Rector of the University of the Aegean (3 year mandate: 1.9.2003-31.8.2006) (Government Gazette, vol. NPDD, no 121, 30.5.2003, no 137, 13.6.2003)				

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16	S. K.	(U16)						<p>President of the Advisory Committee for the assessment of the proposal submitted within the framework of the Category of Acts 2.4.1.a "Enhancement of the structures of Counseling and Career Guidance of the Action 2.4.1 "Counseling and Career Guidance of Measure 2.4 of EPEAEK II, co-funded by the European Union Duration: 30 working days (Government Gazette, vol. YODD, no 13, 18.9.2006)</p> <p>President of the Advisory Committee for the assessment of the proposals the framework of the Category of Acts 3.1.1.a "Establishment and functioning of nodes-boxes to encourage entrepreneurship and support of youth entrepreneurship" of the Measure 3.1 of EPEAEK II, co-funded by the European Union Duration: 60 working days (Government Gazette, vol. YODD, no 19, 25.9.2006)</p> <p>President of the Advisory Committee for the assessment of the proposals submitted under the framework of Class Actions 3.1.2.a: "Establishment and operation of Observatory-monitoring Mechanism of the entrepreneurial landscape, evaluation and predictability policies" of Measure 3.1 of EPEAEK II co-funded by the European Union (Government Gazette, vol. YODD, no 36, 10.10.2006)</p>	

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16	S. K.	(U16)						<p>President of the Committee for the Conducting and Assessment of the results of the International Open Tender for "the Supply and installation of equipment for the creation of School Libraries in 90 TEE (Technical Vocational Schools)- SEK (School Laboratory Centres)" call for tender no 22/2006 within the framework of the project: "Building Interventions and Supply of Equipment for the Housing and Operation of a School Library in 108 TEE – SEK" of EPEAEK II co-funded by the European Union (Government Gazette, vol. YODD, no 93, 30.11.2006)</p> <p>President of the Advisory Committee for the assessment of the proposals submitted under the framework of Class Actions 2.3.1.c: "Introduction of electronic learning (e-learning) in initial vocational training" Energy 2.3.1: "Upgrading of the Public Vocational Training Institutes (IEK)" of Measure 2.3 of EPEAEK II, co-funded by the European Union Duration of the work: 1.6.2007-15.7.2007 (Government Gazette, vol. YODD, no 226, 1.6.2007)</p>	

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16	S. K.	(U16)						<p>President of the Advisory Committee for the assessment of the proposals submitted under the Class Actions 2.3.1.d: "Assurance of the quality and accreditation of initial vocational education and training", of the Energy 2.3.1 "Upgrading of the Public Vocational Training Institutes (IEK)" of Measure 2.3 of EPEAEK II, co-funded by the European Union Duration of the work: 16.8.2007-30.11.2007 (Government Gazette, vol. YODD, no 349, 16.8.2007)</p> <p>President of the re-established reconstituted Committee initially established and constituted by the decision of the Minister of National Education and Religious Affairs 6243/19.10.2006 (Gov. Gaz. YODD, 93, 30.11.2006) for the Conducting and Assessment of the results of the International Open Tender for "the Supply and installation of equipment for the creation of School Libraries in 90 TEE (Technical Vocational Schools)- SEK (School Laboratory Centres)" call for tender no 22/2006 within the framework of the project: "Building Interventions and Supply of Equipment for the Housing and Operation of a School Library in 108 TEE – SEK" of EPEAEK II co-funded by the European Union (Government Gazette, vol. YODD, no 93, 30.11.2006)</p>	

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16	S. K.	(U16)						Member of the Hellenic Quality Assurance Agency for Higher Education (Independent Authority) representing the scientific field of Sciences and Informatics (1.9.2006-30.6.2008) (Government Gazette, vol. B, no 1215, 1.9.2006, vol. YODD, no 92, 24.11.2006, vol. YODD, no 347, 7.8.2008)	
17	N. K.	(U17)	Government Gazette, vol. YODD, no 256, 12.6.2008 (4 year mandate) Alternate Member of U8			Professor at the Department of Informatics and Telecommunications, Athens University	Regular Member of the Sectoral Scientific Council in the field of Informatics, Telecommunications, Systems at the Ministry of Development (three year mandate) (Government Gazette, vol. B, no 19, 13.1.2005) Renewal of mandate (Government Gazette, vol. YODD, no 57, 14.2.2008)	President and member of committees for the assessment of major competitions Member of the Management Board of the Hellenic Telecommunications Organisation S.A (OTE) (1996-1999) (Government Gazette, vol. AE-EPE, no 1356, 3.4.1996) Advisor of the management of the Public Power Corporation on the development of its telecommunications activities and the establishment of TELLAS (2000-2002) Source: Official Website of the Department of Informatics and Telecommunications, Athens University, available at: http://cgi.di.uoa.gr/~kalou/cv_GR.html ; date of access: 12.3.2011	

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17	N. K.	(U17)						<p>Member of the Management Board of the anonymous company under the name "Anonymous Greek Company for the provision of internet products and services" with the distinctive title "OTEnet" (subsidiary company of the Hellenic Telecommunications Organisation) (1998-1999) (Government Gazette, vol. AE-EPE, no 6211, 30.7.1998)</p> <p>President of the Legislative Drafting Committee for the creation of a legal framework for the implementation of the General Commercial Registry (G.E.M.I.) Duration of the work: 18.8.2004-30.10.2004) (Government Gazette, vol. B, no 1271, 18.8.2004)</p> <p>Regular Member of the National Council for Research and Technology (E.S.E.T.) in the field of Informatics, Telecommunications, Systems 2005-2007 (Government Gazette, vol. B, no 1276, 12.9.2005)</p> <p>Vice-President of the Executive Committee of the National Council for Electronic Commerce (Government Gazette, vol. 982, 25.7.2006)</p>	

Serial Number	Name Surname	Appointment/Position in the Authority	End of mandate-Resignation	Previous Position/Title	Party Affiliation/NGOs/Trade Unionism	Parallel Main Occupation	Other parallel appointments/positions in the public sector	Appointments/Positions in the Public Sector before the Appointment to the Authority	Appointments/Positions in the Public Sector after the Appointment to the Authority
18 C. V. (FP18)		(Government Gazette, vol. YODD, no 370, 28.8.2008) He was appointed after the resignation of J5 (expiration of mandate: 12.4.2011) Alternate Member of U16	Submission of resignation on 11.9.2009 Source: Annual Report 2009, available at: http://www.adae.gr/portal/fileadmin/docs/pepragmena/2009/kefalaio%201.pdf , date of access: 14.5.2011 U20 was appointed to the vacant post (Government Gazette, vol. YODD, no 305, 13.9.2010)			Lawyer, PhD in European Law	Alternate Member of the NATO Board of Appeals, Brussels (from 4/2009 onwards) Source: Cover Note to the Secretary General of the Council of the European Union for the Greek candidacy to the General Court of the European Union, Curriculum Vitae of Christos Vassilopoulos, Available at: http://register.consilium.europa.eu/pdf/en/10/st06/st06125.en10.pdf , date of access: 12.1.2011	Clerk (referendaire) at the Court of First Instance (CFI) of the European Communities (renamed the General Court of the European Union), Luxembourg (2/2001-7/2004) Clerk (referendaire) at the Court of Justice of the European Communities (renamed the Court of Justice of the European Union), Luxembourg (7/2004-6/2008) Law firm Vassilopoulos and Partners, Athens (7/2008 to 11/2009) Source: Cover Note to the Secretary General of the Council of the European Union, Curriculum Vitae of Christos Vassilopoulos, Available at: http://register.consilium.europa.eu/pdf/en/10/st06/st06125.en10.pdf , date of access: 12.1.2011	Director of the Political Bureau of the caretaker Minister of the Interior, S. Flogaitis (Government Gazette, vol. YODD, no 414, 16.9.2009) Ipso lure end of the mandate: 6.10.2009 (Government Gazette, vol. YODD, no 452, 15.10.2009) Head of the Bureau for the Support of Good Legislation at the General Secretariat of the Government (Government Gazette, vol. YODD, no 495, 20.11.2009). (Suspension of activities as a lawyer since November 2009 according to this CV) Revocation of the appointment by the Prime Minister Georgios Papandreou (Government Gazette, vol. YODD, no 196, 2.6.2010) Proposal for appointment as Judge of the General Court of the European Union by the Greek government. However, his name would not appear again since the Greek Government proposed a new candidate, Dimitrios Gratsias. The panel set up by article 255 of the Treaty on the functioning of the European Union

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18	C. V.	(FP18)							approved his candidacy and gave an opinion on his suitability to perform the duties of Judge of the General Court. (Appointment of Gratsias published in the Official Journal of the EU, L278/29, 22.10.2010) Sources: -Cover Note to the Secretary General of the Council of the European Union, February 9, 2010, Available at: http://register.consilium.europa.eu/pdf/en/10/st06/st06125.en10.pdf , date of access: 12.1.2011, Newspaper, Eleftherotypia, Saturday, October 16, 2010, Available at: http://www.enet.gr/?i=news.el.article&id=214092 , date of access, 12.1.2011, EU Law Blog, available at: http://eulaw.typad.com/eulawblog/2010/07/index.html , date of access: 12.1.2011
19	M. G.	(U19)	Government Gazette, vol. YODD, no 305, 13.9.2010 Regular Member He filled the vacant post after the resignation of S. Katsikas until the rest of his mandate	Professor Emeritus, Department of Informatics, University of Piraeus Source: The Official Website of the University of Piraeus, available at: http://www.cs.unipi.gr/index.php?option=com_content&view=article&id=64&Itemid=56&lang=el , date of access: 26.3.2011 [He retired from the service (pension) in 2008 (G.G. vol. C, no 986, 23.10.2010)				Member of the Management Board of the Greek Productivity Centre (ELKEPA) (1994-1996) (Government Gazette, vol. B, no 6, 11.1.1994, 186, 22.3.1994, 254, 18.4.1996) Submission of resignation 19.11.1996 (Government Gazette, vol. B, no 1060, 26.11.1996) Member of the Management Board of the Hellenic Telecommunications and Post Commission (5 year mandate) (Government Gazette, vol. B', no 29, 19.1.1995) Submission of resignation: 22.5.2000 (Government Gazette, vol. B, no 669, 30.5.2000)	

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19	M. G.	(U19)						<p>President of the Management Board of the National Accreditation Centre for Continuing Vocational Training and Accompanying Supportive Services" (1997-2004) (Three year mandate. His mandate was renewed twice) (Government Gazette, vol. B, no 427, 27.5.1997, 768, 23.6.2000, 859, 30.6.2003) He submitted his resignation on 10.3.2004 (Government Gazette, vol. B, no 816, 2.6.2004)</p> <p>Member of the Management Board of the Organisation for Vocational Education and Training (OEEK) Three year mandate (Government Gazette, vol. NPDD, no 191, 30.8.2001)</p> <p>Member of the Working Group on the project for the elaboration of a plan linking the initial to the continuing vocational training with the aim to improve the functionality and effectiveness of vocational training in Greece Duration of work: 4.7.2002-30.11.2002 (Government Gazette, vol. B, no 249, 9.2.2004)</p>	

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20	K. L.	(U20)				Assistant Professor at the Department of Digital Systems, University of Piraeus (subject area: "Technologies for the Assurance of Privacy") (Government Gazette, vol. C, no 353, 12.5.2009)	Decision (1464 Φ233.02/15.2.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/VieWlnstr.php , date of access: 24.3.2011)	Member of the Technical Council of the University of the Aegean (Government Gazette, vol. YODD, no 42, 18.10.2006)	
		Alternate Member of U19				[Lecturer at the University of the Aegean (subject area: "Architecture of Electronic Computer Systems") (Government Gazette, vol. NPDD, no 270, 14.11.2000)			
		He filled the vacant post after the resignation of FP18 until the rest of his mandate				Assistant Professor at the University of the Aegean (subject: "Electronic Computer Systems of Special Purpose with an emphasis to the Development of Smart Cards" (Government Gazette, vol. C, 856, 12.9.2008)]			

APPENDIX 5 Full texts of the clauses on the members' professional status, selection criteria, term of office, and functional accumulation status by authority

1. Supreme Council for the selection of personnel

Article 4, par. 2 of the law 2190/1990

“Councillors shall be selected individuals of recognised standing, and professional sufficiency, and more specifically, individuals who currently serve or have served as high-ranking public functionaries or public servants, professors or associate professors in institutions of higher education, or high-ranking officials of public organisations and enterprises or other legal entities [of the public sector] as defined in article 14 par. 1. Retired individuals may be appointed and obtain full salary”. . .

“Councillor and President or Vice President shall be less than 70 or 75 years of age, respectively, at the time of their appointment. Each shall be appointed for a six-year term”. . . The mandate of the members of the Supreme Council for the Selection of Personnel may be renewed for a full or not a full mandate” [the last paragraph is set as amended by article 7 par. 1 of the law 2527/1997]. . .

“Up to five members of those appointed to the Council that come from the ranks of university professors, judges of the supreme courts, and high-ranking civil servants and currently exercise their functions may keep both posts for a three-year period, and select between the two posts after the expiration of that period. To the abovementioned shall be paid half of the full monthly salary as well as the regular allowances of the post they maintain [the last verse is set as amended by article 1 par. 5 of the law 2349/1995]¹⁰⁰¹.

2. Hellenic Data Protection Authority

Article 16, par. 1 of the law 2472/1997

“1. The Authority shall be composed of a judge of a rank corresponding at least to that of a Conseiller d'État as President and six members as follows: a) A University, full or associate, professor specialized in law; b) A University, full or associate, professor specialized in information technology; c) A University, full or associate, professor; d) Three persons of high standing and experience in the field of the protection of personal data.”. . .

5. The President and members of the Authority shall be appointed with an equal number of alternates who must have the same status and qualifications. The alternates of the President and the members will participate in the meetings of the Authority only if the corresponding ordinary member is provisionally absent or unable to participate. By means of a decision, the President of the Authority may delegate special duties to the alternates.

Article 11, par. 3 of the law 2683/1998

“4. The President and members of the Authority will be appointed for a specific term of office. Their term of office will be of four years and may be renewed only once. None may serve for a total period exceeding eight (8) years. Half of the six members of the Authority will be renewed every two years. In the first application of the present law the term of office of the six (6) members of the Authority shall be of four years. After the second constitution of the Authority, a draw of lots will take place among the six ordinary members so as to decide which three of them will serve for a four-year period and which for a two-year period”.

¹⁰⁰¹ The initial verse of the founding law read as follows: *“They shall keep earning ½ of the salary of their main post”.*

Article 16, par. 1 and 2 of the law 2472/1997

“... The judge-President and the professors-members may be on active service or not. 2. The President of the Authority shall be employed on a full and exclusive time basis . . . If a judge on active service is selected for the position of the President, then a decision of the competent Supreme Judicial Council is also required¹⁰⁰². The same procedure is to be followed for the selection and appointment of the President’s alternate”.

Article 17 of the law 2472/1997

“1. No one may be appointed as a member of the Authority: a) If s/he is a Minister, Assistant Minister, Secretary-General to a Ministry or to an independent Secretariat General or a Member of Parliament.

b) If s/he is a governor, manager, administrator, member of the Board of Directors or a person performing managerial duties, in general, in an enterprise producing, manufacturing, selling or trading in materials being used in information technology or telecommunications or rendering services in connection to information technology, telecommunications or personal data processing, as well as persons bound by a work contract to such an enterprise.

2. Membership of the Authority is automatically forfeit for anyone who, following his/her appointment:

a) acquires one of the positions impeding membership of the Authority by virtue of the preceding paragraph.

b) performs any acts or undertakes any tasks or projects or acquires any other position which, at the Authority’s discretion, is incompatible with his/her duties as a member of the Authority.

3. Evidence on the incompatibility, pursuant to the preceding paragraph, is taken by the Authority without the participation of the member, whose position may be incompatible. The Authority shall decide having previously heard the said member. The procedure may be initiated either by the President of the Authority or by the Minister of Justice.

4. The loss of the qualifications on the basis of which a member of the Authority was appointed, pursuant to article 16 paragraph 1 of this law, shall entail his/her automatic forfeiture, if due to an irrevocable disciplinary or criminal conviction”.

3. The Greek Ombudsman

Article 2, par. 1 of the law 2477/1997

“1. As Ombudsman and Deputy Ombudsmen are selected individuals of acknowledged prestige, who have superior educational qualifications and enjoy broad social acceptance”.

Article 2, par. 3 and 5 of the law 2477/1997

“3. The term of office of the Ombudsman and the Deputy Ombudsmen shall be for five years. Reappointment of the same individual as Ombudsman is not permitted. The premature termination of the Ombudsman’s term of office, for any reason, entails ipso jure the termination of office of the Deputy Ombudsmen”.

¹⁰⁰² By the time of the enactment of the law, article 89, par. 3 of the 1975/1986 Constitution permitted the assignment of administrative duties to judicial functionaries, either in parallel with the exercise of their main duties, or exclusively, for a certain period of time as defined by law. However, this clause was abolished by the revised Constitution of 2001. Instead, article 89, par. 2 provides that: “Exceptionally, judicial functionaries . . . may sit on councils or committees exercising competences of disciplinary, auditing or adjudicating nature and on legislative drafting committees, provided that this participation is specifically stipulated by the law”.

5. During the term of office of the Ombudsman and Deputy Ombudsmen, the exercise of any other public function is suspended. The Ombudsman and the Deputy Ombudsmen are not permitted to assume any other duties, whether paid or unpaid, in the public or private sector”.

Article 2, par. 4 of the law 3094/2003

“During the term of office of the Deputy Ombudsmen, the exercise of any other public office is suspended, as well as the exercise of any other duties in any position in the public sector, public law legal entities, and legal entities of the broader public sector.

[This section of par. 4 was amended by article 284 par. 5 of the law 3852/2010 as follows: During the term of office of the Deputy Ombudsmen, the exercise of any other public office is suspended, as well as the exercise of any other duties in any position in the services contained in the first verse of par. 1 of article 3 of the present law¹⁰⁰³]. Deputy Ombudsmen work under conditions of full-time and exclusive employment and may not assume any other professional activity. Deputy Ombudsmen may, however, work part-time as members of the teaching staff of universities”.

Article 2 par. 3 of the law 3094/2003

“The expiry of the Ombudsman's term of office, for whatever reason, shall ipso jure bring the end of the Deputy Ombudsmen's term of office, who shall continue to perform their duties until the appointment of the new Deputy Ombudsmen, and in any case not later than three months following the appointment of the new Ombudsman”.

4. The Authority for Communication, Security, and Privacy.

Article 2, par. 1 and 3 of the law 3115/2003

“1. The Authority for Communication, Security and Privacy shall be made up of the President, Vice-President, and five other members as well as their respective alternates who must have the same status and qualifications. . .

“3. The persons selected as members of the Authority shall enjoy broad social acceptance, and be distinguished for their scientific expertise and professional competence in the field of law or the technical field of communications”.

Article 4, par. 3 of the law 3115/2003

“During the term of office of the members of the Authority for Communication, Security, and Privacy the exercise of any other public office or profession is suspended, and it is not allowed to assume other duties, paid or not, in the public or the private sector. The members of the Authority, with the exception of the President who works under conditions of full-time and exclusive employment, may, however, exercise duties as members of a University faculty on a part-time basis”.

¹⁰⁰³ Paragraph 1, Article 3 of the law 3094/2003 reads as follows: “Jurisdiction. 1. The Ombudsman has jurisdiction over issues involving services of: a) the public sector, b) first and second level local government, c) public law legal entities, d) private law legal entities of the public sector, public corporations, local government enterprises and companies whose management is directly or indirectly appointed by the state by means of an administrative decision or as a shareholder. Banks and the Athens Stock Exchange are exempted”.

Appendix 6 The Members' Involvement in Public Life Index

Career paths	The members' match with career paths by authority			
<i>A. Political involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
Minister		U3		
Member of the European Parliament	U7	U20		
Parliamentary candidate	FP56	U26		
Candidate in local government elections		U17(2),		
Elected in local government elections			U2	FP3(6), FP11
Governmental Posts	CS9, U8, CS10, LC37, CS52	J2, U4(3), U9, FP15, J19(2), U20, U29, FP36(2), LM39(3)	FP8, CS10(2), CS11(4), CS12,	U16, FP18(2)
Scientific Collaborators of Deputies of the Hellenic Parliament		FP36		
Party affiliation	FP56	U7, U20, U25, U28, FP36		FP3, FP10, FP11, U16
Trade unionism	FP43	FP37	CS5, CS11	
<i>B. Institutional Involvement</i>				
Positions in the European Union upon proposal of the Greek Government (the European Courts, the European Commission, National Delegation)	U8, J27	FP12, J33		FP18(2)
Appointments in the institutions of the European Union (e.g. the European Ombudsman)			U1	
Experts/Presidents/Members of Committees representing the Greece in international organizations, the European Union, the Council of Europe, National Committees (sections) of international or intergovernmental organisations		U4, U7, U9, FP11, FP12(2)	FP3, CS5	
Experts, Judges in international organizations, Members of Boards in Intergovernmental organizations, Advisors of international organisations		U4	U9, CS10	FP18

Appendix 6 Continued

Career paths	The members' match with career paths by authority			
<i>B. Institutional Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
Minister in Caretaker Government	U7, U8(2)	U7, J19		
President of Legislative Drafting Committees	U7(3)	J33(2), FP37		U17
Member of Legislative Drafting Committees	U8(4), CS11, J15(3), J22, J23, LC37, J40	J2(2), U7(3), U9(5), FP12, FP15(5), J19(2), FP24, U29(7), U30(3), U31(2), J34, FP37(2), J2, U25	FP3(3), CS5, CS11(2), CS12(2), U13, U14	U6, U16
President of Working Groups/Monitoring Committees/Advisory Committees/Project Management Groups constituted by Ministries	CS9(2)			U8, U16(6)
Member of Working Groups/Monitoring Committees/Advisory Committees/Scientific Councils-Committees/Project Management Groups constituted by Ministries or other legal entities of public law, studies-expertise carried out on behalf of ministries and other public bodies	U8(2), CS9(8), CS10(4), CS11, CS17(2), U21, CS28, CS30(2), LC37, CS38(4), CS39, J45, CS51(2), CS52(7), J53, J54	U3(3), U4(3), U6(4), U7(7), FP12, U14(4), FP15(2), U16, U18, U25, U29, U30(4), U32, FP36(3), U38(3), LM39(8)	CS4, CS5(4), LM6(2), FP8, U9(3), CS11, CS12(2), U13(2), U14(2)	J4, U6(5), U7, U8, U9, U14, U16, U17, U19
Presidents and Vice-Presidents of the Supreme Courts: The Hellenic Supreme Court of Civil and Penal Law, the Council of State (Supreme Administrative Court), the Court of Audit, General Commissioner of the Administrative Courts	J1, J3, J4, J10, J12, J13, J15, J23, J34, J45, J53	J1, J2, J19, J33		
President or Vice-President of the Legal Council of State	LC16, LC33			
President of the Scientific Council of the Hellenic Parliament		U16		
Scientific Collaborator at the Scientific Service of the Hellenic Parliament			U2	

Appendix 6 Continued

Career paths	The members' match with career paths by authority			
<i>B. Institutional Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
President (alternate president) of Advisory Bodies in Public Administration	U6			
Member (alternate member) of Advisory Bodies in Public Administration	CS28(2), CS52(2)	U8(2), U9, U20, U25(2), U28, U32	U1	U6, U9(2), U17(2)
Ex officio member (alternate member) of the National Commission for Human Rights representing certain independent authorities, (the Greek Ombudsman, the National Council for Radio and Television, and the Hellenic Data Protection Authority), the Supreme Courts, certain Ministries pursuant to article 2 of the law 2667/1998 on the constitution of the National Committee for Human Rights	J5, J53	U3, U4(2), U7, U8, FP11, FP12(2), U18, J19, FP24, FP37	U1, CS10(2), U14	
Member of the Central Examination Committee of the National School of Public Administration or other examination committees (e.g. the National School of Judicial Officers), member of committees for the selection of personnel in the public sector, advisor of studies at the National Centre for Public Administration	CS9(4), CS39, CS42(3), J45(2), J47	U3, J27, U29, U30(3), U32	U9(2)	
Members of Special Courts and Councils related to judges' responsibility and judges' disciplinary issues pursuant to articles 99 and 91 of the Constitution (Special Court for Mistrial, and Supreme Disciplinary Council)	J12(2), J15, J19(2), J20, J23(2), J24(2), J32, J45	J1(2), J2, U3, U4(6), U7, U9, U16(2), J22(3), U29, U31(2)		J4
Members of the Supreme Special Court pursuant to article 100 of the Constitution				
Court for the determination of Disputes (article 88 of the Constitution)				
President/Vice-President of various committees, councils exclusively or partly constituted by judges	J3, J5			
Member of various committees, councils exclusively or partly constituted by judges	J12, J25(2), J31, J49, J50, J53	J1, J19(2), J34		
Member of the Disciplinary Council of the Athens Bar Association	FP43			
Legal Adviser, Legal Collaborator, Adviser in the Public Sector		FP12, U30	LM6	U17
Costumers' Advocate (National Bank of Greece)		U30		

Appendix 6 Continued

Career paths	The members' match with career paths by authority			
C. Financial Involvement	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
President/Alternate President of Procurement Committees		U25		U6, U9, U14, U16(2), U17
Member (alternate member) of Procurement Committees	FP56	U6(3), U14, U28		J5, U6, U7, U9(4), U14, U16, U17
President/Vice-President of bodies (legal entities of public law, autonomous services or legal entities of private law supervised by a Ministry) related to economic appraisal, the administration of public property (e.g. forests), Technical Councils of Universities	J2, J12	U32		
Member of bodies (legal entities of public law or autonomous services or legal entities of private law supervised by a Ministry) related to economic appraisal or the administration of public property (e.g. forests), Technical Councils of Universities		U14		U20
D. Institutional and Financial Involvement				
President/Vice-President of another Independent Authority	J5	U8		FP1
Member of another Independent Authority	J19	U7, U9, U16, U32	U1	U16, U19
Inspector General of Public Administration		J1		
President of Advisory or Arbitration and Mediation Bodies in Public Administration	U7(3), U8			
Member of the Management Board of Advisory or Arbitration and Mediation Bodies in Public Administration	CS28			
President/Vice-President of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry, Project Management Units in Ministries	U6, J23, J27, CS41	U3, U7, U14, U25, U32(2), U35, LM39	LM6	FP1(2), U9, U19
Member (alternate member) of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry, member of the management board of the Cultural foundation of the Bank of Greece	CS17, CS39, CS41, CS51(2), CS55(3)	J2, U3(3), U10, FP15(2), U16, U18, U20(2), U30(3), U31(2), U35	U1, LM6(2), U9(2), CS11(2), U14(2), CS15(3)	CS15, U17(2), U19(2)

Appendix 6 Continued

Career paths	The members' match with career paths by authority			
<i>D. Institutional and Financial Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
CEO in an anonymous company of the public sector supervised by a ministry				CS12
President/Vice-President of the Governing Board of Greek Universities	U7			
Member of the Governing Board of Greek Universities	U8	U25, U35		
Elected Rector of a Greek University		U3		U16
Elected Vice-Rector of a Greek University				U16
<i>E. Scientific Involvement</i>				
Experts representing Greece in international scientific organizations		U20		
President of Scientific Councils, President/Director of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research character, Director of think tanks	U6(2), U8(2)	U6, U8(2), U25, U35	U1, U13	
Member of Scientific Councils, Member of the Management Board of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research- character, member of think tanks, Special Scientist, Special Scientist in Research Centres/Scientific Committees	U6(2), U8	U6, U7(2), U8, U20, J33	U1, U13	U9
Members of the teaching staff of Greek Universities and Technological Educational Foundations (tenured positions) after resignation or end of mandate		FP15	FP3, LM6, FP8, CS10	
Members of the teaching staff of Greek Universities and Technological Educational Foundations (under contract)		LM39, FP36(2)	FP3(7), LM6(2), FP8	U14(2)
Members of the teaching staff of the National School of Public Administration, the National Centre of Public Administration, Police Academy and other public educational centres (under contract)		J33(2)	FP3(4), CS5, LM6, U9	U20
<i>F. Civil Society Involvement</i>				
Member of NGOs		U3, U7(2), FP11, FP12, U17, FP36	FP3, FP7, FP8, CS10, CS11	FP11

Abbreviations of Appendix 6

U: University Professors

J: Judges

CS: High-ranking civil servants, that is, those possessing the degrees of Directors or Directors General, members of the Special Scientific Staff (experts), and executives of the Public Sector

LC: High-ranking functionaries of the Legal Council of State

FP: Free-lance professionals (lawyers, economists, experts in general)

Numbers

The numbers next to the abbreviations correspond to the serial number of each member of the authorities as presented in the appendices 1, 2, 3, and 4.

The numbers in parentheses correspond to the number of appointments in the various posts, committees etc

APPENDIX 7

The Members' Time-Dimension Involvement in Public Life Index

Functional Accumulation and Types of Involvement	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
FUNCTIONAL ACCUMULATION simultaneously keeping more than one public positions	U6, U7, U8, CS9, CS11, CS18			J2, U3, U4, U5, U6, U7, U8, U9, U10, U14, U16, U17, U18, U20, U21, U25, U26, U28, U29, U30, U31, U32, U38			U9, U13, U14			U6, U7, U8, U9, U14, U16, U17, U20		
TYPE OF INVOLVEMENT	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
A. POLITICAL INVOLVEMENT												
Minister						U3						
Member of the European Parliament			U7			U20						
Parliamentary candidate	FP6				U26							
Candidate in local government elections				U17(2),								
Elected in local government elections							U2			FP3(3), FP11	FP3	FP(2)
Governmental Posts	U8, CS10, LC37		CS9, CS52	J2, U4, J19, U29, FP36(2), LM39(2)	U9, FP15, LM39	U4, U20	FP8, CS10, CS11(3), CS12,		CS10, CS11,		FP18(2)	U16,
Scientific Collaborators of Deputies of the Greek Parliament				FP36								

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
B. INSTITUTIONAL INVOLVEMENT												
Minister in Caretaker Government	U7, U8			J19		U7						
Posts in the European Union upon proposal of the Greek Government (the European Courts, the European Commission), member of the National Delegation in the European Union	J27		U8	FP12, J33						FP18(2)		
Appointments in the institutions of the European Union (e.g. the European Ombudsman)						U8			U1			
Experts/Presidents/Members of Committees representing Greece in international organizations, the European Union, the Council of Europe, National Committees (sections) of international or intergovernmental organisations					U7, U9, FP11, FP12(2)		FP3, CS5					
Experts in international organizations, Members of Boards in Intergovernmental organisations, Advisors of International Organisations							U9, CS10,				FP18	
President of Legislative Drafting Committees	U7	U7	U7	J33(2), FP37	U29	FP15				U17		
Member of Legislative Drafting Committees	J15(2), J22, J23, J40	U8, CS11, J15	U8(2)	U7, U9, FP15, J19, FP24, U30(2), U31(2), J34, FP37(2),	J2, U7(2), U9(2), FP12, U29(5), U30	U9, FP15(3), U30	FP3(3), CS5, CS11, CS12, U13, U14	CS11, CS12			U6, U16	
President of Working Groups/Monitoring Committees/Advisory Committees/Project Management Groups constituted by Ministries, President of National Councils on various policy issues			CS9(2)		J2	U25				U8, U16(6)	U8	

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
B. Institutional Involvement												
Member of Working Groups/Monitoring Committees/Advisory Committees/Scientific Councils-Committees/Project Management Groups constituted by Ministries or other legal entities of public law, studies-expertise carried out on behalf of ministries and other public bodies	CS9(2), CS17, CS28, CS30(2), LC37, CS38(4), CS39, J45(2),CS51(2), CS52(7), J53, J54, J55	CS9(4), CS10(4), CS11, U21, CS39(2)	U8(2), CS9, CS17	U3, U7, U14(4), FP15, U16, U18, U30(2), FP36(2), U38(2), LM39(6)	U3(2), U4(3), U6(3), U7(4), FP12, FP15, U14(2), U25, U29, U32, FP36, U38, LM39(2)	U7(2), U14(2)	CS4, CS5(2), LM6(2), U9(2), CS11, CS12, U13(2), U14(2)	CS5(2), FP8, U9, CS12		J4, U6(3), U7, U8, U6(2), U9, U17 U14, U16, U19		
Presidents and Vice-Presidents of the Supreme Courts:	J1, J3, J4, J10, J12, J13, J15, J23, J34, J45, J53			J1, J19, J33	J2							
President or Vice-President of the Legal Council of State	LC16, LC33											
President of the Scientific Council of the Hellenic Parliament					U16							
Scientific Collaborator (research fellow) at the Scientific Service of the Hellenic Parliament							U2					
Advisory Bodies												
Member (alternate president) of Advisory Bodies in Public Administration	U6											
Member (alternate member) of Advisory Bodies in Public Administration (National Councils on various policy issues e.g. the National Bio-Ethics Committee, the Supreme Labour Council)	CS28(2), CS52(2)				U28,U32	U8(2), U9, U20, U25(2)		U1		U17(2)	U6, U9(2)	

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
B. Institutional Involvement												
Ex officio member (alternate member) of the National Commission for Human Rights representing certain independent authorities, (the Greek Ombudsman, the National Council for Radio and Television, and the Hellenic Data Protection Authority), the Supreme Courts, certain Ministries pursuant to article 2 of the law 2667/1998 on the constitution of the National Committee for Human Rights	J53		J5	FP24,	U3, U4(2), FP11, FP12(2), U18, J19, FP24, FP37	U7, U8	CS10	U1, U14	CS10			
Member (alternate member) of the Central Examination Committee of the National School of Public Administration or other examination committees (e.g. the National School of Judicial Officers), member of committees for the selection of personnel in the public sector, advisor of studies at the National Centre for Public Administration	CS9(4), CS39, CS42(3), J45(2), J47			J27,	U3, U29, U32	U30(3),	U9	U9				
Members of Special Courts and Councils related to judges' responsibility and judges' disciplinary issues pursuant to articles 99 and 91 of the Constitution (Special Court for Mistrial, and Supreme Disciplinary Council)	J12(2), J15, J19(2), J20, J23(2), J24(2), J32, J45			J1(2), J2, U3, U4(3), U16, J22(3), U29,	U4, U7, U31(2)	U9, U16				J4		
Members of the Supreme Special Court pursuant to article 100 of the Constitution President/Vice-President of various committees, councils exclusively or partly constituted by judges	J3, J5			J1, J19(2), J34								
xxii) Member of various committees, councils exclusively or partly constituted by judges	J12, J25(2), J31, J49, J50, J53											

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
B. Institutional Involvement												
Member of the Disciplinary Council of the Athens Bar Association	FP43											
Legal Adviser, Legal Collaborator, Adviser in the Public Sector				U30	FP12, U30	U30	LM6			U17		
Costumers' Advocate (National Bank of Greece)						U30						
C. FINANCIAL INVOLVEMENT												
President/Alternate President of Procurement Committees						U25				U9, U14, U16(2), U17	U6, U9	
Member (alternate member) of Procurement Committees		FP56			U6, U14, U28	U6(2)				J5, U6, U7, U9, U14, U16, U17	U6, U9(2)	U9
President/Vice-President of bodies (legal entities of public law, autonomous services or legal entities of private law supervised by a Ministry) related to economic appraisal, the administration of public property (e.g. forests), Technical Councils of Universities	J12	J2			U32							
Member of bodies (legal entities of public law or legal entities of private law supervised by a Ministry) related to economic appraisal or the administration of public property (e.g. forests), Technical Councils of Universities					U14					U6, U20		
D. INSTITUTIONAL + FINANCIAL INVOLVEMENT												
President/Vice-President of another Independent Authority			J5	U8		U8				FP1		
Member of another Independent Authority	J19			U7, U16	U32	U9	U1			U16, U19		
Inspector General of Public Administration						J1						

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
D. INSTITUTIONAL + FINANCIAL INVOLVEMENT												
President of Advisory or Mediation and Arbitration Bodies in Public Administration (e.g. the Economic and Social Committee)		U7(2)	U7, U8									
Member of the Management Board of Advisory or Mediation and Arbitration Bodies in Public Administration (e.g. the Economic and Social Committee)	CS28											
President/Vice-President of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry, Project Management Units in Ministries, autonomous services in Ministries directly supervised by the Minister	U6, J23, CS41		J27	U14, U35, LM39	U3, U25, U32(2),	U7			LM6	FP1(2), U19		U9
Member (alternate member) of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry, member of the management board of the Cultural foundation of the Bank of Greece	CS17, CS39, CS41, CS51(2), CS55(2)	CS55		U3, U14, U16, U30, U31,	FP15, U30(2), U31, U35	J2, U3(2), U10, FP15, U18, U20(2)	U9(2), U14, CS15(3)	U1, LM6, U14	LM6, CS11(2),	CS15, U17(2), U19(2)		
CEO in an anonymous company of the public sector supervised by a ministry										CS12		
President/Vice-President of the Governing Board of Greek Universities*	U7											
(* in cases of newly established universities whose governing boards are appointed by the Minister of National Education and Religious Affairs)												

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
D. INSTITUTIONAL + FINANCIAL INVOLVEMENT												
Member of the Governing Board of Greek Universities*	U8				U35	U25						
(* in cases of newly established universities whose governing boards are appointed by the Minister of National Education and Religious Affairs)				U3								
Elected Rector of a Greek University										U16		
Elected Vice-Rector of a Greek University										U16		
E. SCIENTIFIC- CULTURAL INVOLVEMENT												
Experts representing Greece in international organizations						U20						
President of Scientific Councils, President/Director of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research character, Director of think tanks,		U6(2)	U8(2)	U8(2), U35	U6	U6, U25	U1(2), U13					
Member of Scientific Councils, Member of the Management Board of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research- character, member of think tanks, Special Scientist in Research Centres/Scientific Committees	U8	U6(2), U8		U7, U8, U20, J33	U6, U7		U1, U13					U9

	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
TYPE OF INVOLVEMENT	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate	Involvement before the mandate	Functional Accumulation during the mandate	Involvement after the mandate
E. SCIENTIFIC												
Members of the teaching staff of Greek Universities and Technological Educational Foundations (tenured positions) elected/appointed after their resignation or end of mandate						FP15				FP3, LM6, FP8, CS10		
Members of the teaching staff of Greek Universities and Technological Educational Foundations (under contract)				LM39,	FP36(2)		FP3(2), LM6(2),	FP8		FP3(2),		
Members of the teaching staff of the National School for Public Administration, the National Centre of Public Administration, Police Academy and other public educational centres (under contract)				J33(2)			FP3(4), CS5, LM6, U9			U14(2)	U20	

Appendix 8 Tables on the variations and intensity of involvement, and functional accumulation status by authority

1. Supreme Council for the Selection of Personnel

Table 1

Variations of involvement in public life by professional status

Judges	Variations of involvement	University Professors	Variations of involvement	High-ranking Civil Servants	Variations of involvement	High-ranking functionaries of the Legal Council of State	Variations of involvement	Free-lance Professionals	Variations of involvement
J3, J4, J13, J15, J20, J24, J25, J31, J32, J40, J45, J47, J49, J50, J53, J54	I	U6	I+IF+S	CS9, CS10, CS52	P+I	LC16, LC33,	I	FP43	P+I
J2	F	U7	P+I+IF	CS11, CS30, CS38, CS42	I	LC37	P+I	FP56	P+F
J12, J5, J19, J23, J27	I+F I+IF	U8	P+I+IF+CS	CS17, CS39, CS28, CS51	I+IF				
		U21	I	CS41, CS55	IF				
Total: 22		Total: 4		Total: 13		Total: 3		Total: 2	

The letters A, B, C, D, E and F correspond to the thematic dimensions of involvement: Political (A), Institutional (B), Financial (C), Institutional and Financial (D), Scientific (E), and Civil Society (F)

Total number of members: 44

Table 2

Intensity of involvement

Professional status	Intensity		
	low	medium	high
Judges	22		
University professors	1	2	1
Civil servants	11	1	1
Legal Councillors of State	3		
Free lance professionals	2		
total	39	3	2

Intensity of involvement: low, medium, high

1-5 low

6-10 medium

11- high

Table 3

Functional Accumulation by professional status

Judges	Variations and intensity of involvement	University Professors	Variations and intensity of involvement	High-ranking Civil Servants	Variations and intensity of involvement	Free-lance Professionals	Variations and intensity of involvement
J2	F	U6	S(4)	CS9	I(4)	FP56	F
J15	I	U7	I+IF(2)	CS10	I(4)		
		U8	S	CS11	I(2)		
		U21	I	CS39	I(2)		
				CS55	IF		
Total: 2		Total: 4		Total: 5		Total: 1	

2. Hellenic Data Protection Authority

Table 4
Variations of involvement in public life by professional status

Judges	Variations of involvement	University Professors	Variations of involvement	Lawyers with a salary mandate	Variations of involvement	Free-lance Professionals	Variations of involvement
J1	I+IF	U3,U7	P+I+IF+S+CS	LM39	P+I+IF+S	FP11, FP12	I+CS
J19	P+I	U4, U9, U29	P+I			FP15	P+I+S
J22, J27, J34	I	U6	I+F+S			FP24	I
J33	I+S	U8, U30	I+IF+S			FP36	P+I+CS
J2	P+I+IF	U38 U10 U14, U32 U16, U18, U31 U17 U20 U25 U26 U28 U35	I IF I+F+IF I+IF P+SC P+I+IF+SC P+I+F+IF+S P P+I+F IF+SC			FP37	P+I
TOTAL: 7		TOTAL: 21		TOTAL: 1		TOTAL: 6	

Total number of members: 35

Table 5
Intensity of Involvement by professional status

Professional status	Intensity		
	low	medium	high
Judges	3	4	
University professors	7	8	6
Lawyer with a salary mandate			1
Free lance professionals	3	3	
total	13	15	7

Intensity of involvement: low, medium, high
1-5 low
6-10 medium
11- high

Table 6
Functional Accumulation by professional status

Judges	Variations of involvement	University Professors	Variations of involvement	Lawyers with a salary mandate	Variations of involvement	Free-lance Professionals	Variations of involvement
J2	I(3)	U3	I(4)+IF	LM39	P+I(2)	FP11	I(2)
J19	I	U4	I(8)			FP12	I(7)
		U6	I(3)+F(2)+S(2)			FP15	P+IF
		U7	I(8)+S			FP24	I
		U9	P+I(3)			FP36	I+S(2)
		U14	I(2)+F(2)			FP37	I
		U16 , U18,	I				
		U38					
		U25	I+IF				
		U26	P				
		U28	I+F				
		U29	P+I(8)				
		U30	I(2)+IF(2)				
		U31	I(2)+IF				
		U32	I(3)+F+IF(2)				
		U35	IF(2)				
TOTAL: 2		TOTAL: 17		TOTAL: 1		TOTAL: 6	

The letters A, B, C, D, E and F correspond to the thematic dimensions of involvement: Political (A), Institutional (B), Financial (C), Institutional and Financial (D), Scientific (E), and Civil Society (F)
Total number of members: 26

3. The Greek Ombudsman

Table 7

Variations of involvement by professional status

University Professors	Variations of involvement	High-ranking Civil Servants	Variations of involvement	Lawyers with a salary mandate	Variations of involvement	Free-lance Professionals	Variations of involvement
U1, U9	I+IF+S	CS4	I	LM6	I+IF+S	FP3	I+S+SC
U2	P+I	CS5	P+I +S			FP7	SC
U13	I+S	CS10	P+S+SCS			FP8	P+I+S+C S
U14	I+IF	CS11 CS12 CS15	P+I+IF+CS P+I IF				
TOTAL: 5		TOTAL: 6		TOTAL: 1		TOTAL: 3	

The letters A, B, C, D, E and F correspond to the thematic dimensions of involvement: Political (A), Institutional (B), Financial (C), Institutional and Financial (D), Scientific (E), and Civil Society (F)
Total number of members: 15

Table 8

Intensity of involvement by professional status

Professional status		Intensity		
		low	medium	high
University professors		2	3	-
Civil servants		3	2	1
Lawyer with a salary mandate			1	
Free lance professionals	2		-	1
total		7	6	2

Intensity of involvement: low, medium, high
1-5 low
6-10 medium
10- high

Table 9

Functional Accumulation by professional status

University Professors	Variations of involvement	High-ranking Civil Servants	Variations of involvement	Lawyers with a salary mandate	Variations of involvement	Free-lance Professionals	Variations of involvement
U1	I(2)+IF	CS5, CS12	I(2)	LM6	IF	FP3	I
U9	I(2)	CS11	I			FP8	I+S
U14	I+IF						
TOTAL: 3		TOTAL: 3		TOTAL: 1		TOTAL: 2	

Total number of members: 9

4. The Hellenic Authority for Communication, Security and Privacy

TABLE 10

Variations of involvement in public life by professional status

Judges	Variations of involvement	University Professors	Variations of involvement	High-ranking Civil Servants	Variations of involvement	Free-lance Professionals	Variations of involvement
J4	I	U6, U7	I+F	CS12, CS15	IF	FP1	IF
J5	F	U8 U9 U14 U16 U17 U19 U20	I I+F+IF+S B+C+E P+I+F+IF I+F+IF I+IF F+S			FP3, FP10 FP11 FP18	P P+CS A+B
TOTAL: 2		TOTAL: 9		TOTAL: 2		TOTAL: 5	

The letters A, B, C, D, E and F correspond to the thematic dimensions of involvement: Political (A), Institutional (B), Financial (C), Institutional and Financial (D), Scientific (E), and Civil Society (F)

Total number of members: 18

Table 11

Intensity of involvement by professional status

Professional status		Intensity		
		low	medium	high
Judges		2	-	
University professors		5	3	1
Civil Servants		2	-	-
Free lance professionals		4	1	-
total		13	4	1

Intensity of involvement: low, medium, high

1-5 low

6-10 medium

10- high

Table 12

Functional Accumulation by professional status

University Professors	Variations of involvement	Free-lance Professionals	Variations of involvement
U6	I(4)+F(2)	FP3	P
U8, U16, U17	I	FP18	P(2)
U9	I(3)+F(3)		
U20	S		
TOTAL: 6		TOTAL: 2	

Total number of members: 8

Appendix 9 Data Overview

University Professors and Judges constitute the predominant professional categories in the authorities as shown in Table 1. High-ranking civil servants and free-lance professionals represent 19% and 13%, respectively, of the total number of the members. Legal Councillors of State (3 of 130) were only appointed to the Supreme Council for the Selection of Personnel, whereas lawyers with a salary mandate are equally weakly represented (2 of 130).

Table 1 The members' Professional Status

University Professors	Judges	High-ranking Civil Servants	Free-lance Professionals	Legal Councillors of State	Lawyers with a salary mandate
42 (32%)	41 (32%)	25 (19%)	17 (13%)	3 (2%)	2 (2%)

Sources: The Government Gazette and Annual Reports

Gender distribution in the authorities is shown in Table 2. It is far from clear that the overwhelming majority of the members are men. More specifically, men represent 85% of the total number of the members, whereas women reach 15%. Interestingly enough, these results are only reversed in the case of the Greek Ombudsman since we have 8 women and 7 men. Finally, women are less represented in the Hellenic Data Protection Authority and the Hellenic Authority for Communication, Security and Privacy.

Table 2 Gender distribution in the four independent constitutional authorities

	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	TOTAL
Men	49	36	7	19	111 (85%)
Women	7	3	8	1	19 (15%)

Sources: The Government Gazette and Annual Reports

The average tenure of the members in all four independent constitutional authorities is high, and ranges from 4.7 years to 6.4 years, as shown in Table 3. Thus, it greatly exceeds that of a minister or a government. This trend is explained by the practices of reappointments, and long delays in the replacement of the members after the expiration of their term of office. However, irregular cases extending the members' mandates have also been found.

Premature departure from office is quite often, and ranges from 20% to 33% of the total number of the members for each authority, as shown in Table 4. On many occasions, resignations before the expiration of a member's mandate have often been for professional reasons, namely appointments to other attractive public posts. The resignations due to the Cameras case are of great interest. Two out of the seven resigned members of the Hellenic Data Protection Authority accepted to be reappointed two months after the submission of their resignation, whereas one

member proceeded to the revocation of his resignation, and continued to serve for the remainder of his mandate.

TABLE 3 Average Length of Tenure of the Members of the four Constitutional Independent Authorities

	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy
	1994-31.12.2010	1997-31.12.2010	1997-31.12.2010	2003-31.12.2010
Average tenure	6.4 years (55)	4.7 years (38)	4.8 (15)	5.1 (20)

Average tenure: all members, that is, (heads, members and alternate members) appointed and reappointed; where term of office ends after December 31st 2010, time is included; excludes those deceased in office

TABLE 4 Resignations of the Members of the four Constitutional Independent Authorities before the End of term

Authority	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy
Period	1994-31.12.2010	1997-31.12.2010	1997-31.12.2010	2003-31.12.2010
%resigning before end of term	20% (11 of 55)	32% (12 of 38)	33% (5 of 15)	25% (5 of 20)
% resigning due to the expiration of their mandate (age limit)	9% (5 of 55) (5 Judges)	-	-	-
Main Occupation of the resigned members	2 High ranking Civil Servants 3 University Professors 1 high ranking functionary of the Legal Council of State 5 Judges	2 Free lance Professionals, 7 University Professors 3 Judges	2 High ranking Civil Servants 1 University Professors 1 Free Lance Professional 1 Lawyer with a salary mandate	2 University Professors, 2 Free lance Professionals, 1 Judge

It should be noted that the alternate member FP15 of the Hellenic Data Protection Authority, and the Deputy Ombudspersons FP3, LM6, FP8, and CS10 followed academic careers after the end of their mandate or their resignation from the authority.

The broadness of the members' involvement in public life, that is, the combinations of the thematic dimensions of the involvement index in which they participate, is presented by professional status in Tables 5, 6, 7, 8, 9, 10, and 11. The University Professors' career paths are extremely rich, and their involvement in public life is the broadest compared to that of the other professional categories. We should also point out that they participate in the financial and institutional-financial dimensions more than any other professional category. More specifically, five participate in one dimension of the index; fifteen participate in two dimensions; twelve participate in

three dimensions; four participate in four dimensions; three participate in five dimensions.

Table 5 University Professors' broadness of involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	Subtotal	Total
P	-	1	-	-	1	5
I	1	1	-	1	3	
IF	-	1	-	-	1	
P+I	-	3	1	-	4	
I+IF	-	3	1	1	5	
P+CS	-	1	-	-	1	15
IF+S	-	1	-	-	1	
I+S	-	-	1	-	1	
F+S	-	-	-	1	1	
I+F	-	-	-	2	2	
P+I+IF	1	-	-	-	1	12
I+IF+S	1	2	2	-	5	
I+F+S	-	1	-	1	2	
I+F+IF	-	2	-	1	3	
P+I+F	-	1	-	-	1	
P+I+IF+S	1	1	-	-	2	4
P+I+F+IF	-	-	-	1	1	
I+F+IF+S	-	-	-	1	1	
P+I+IF+S+C	-	2	-	-	2	3
S	-	-	-	-	-	
P+I+F+IF+S	-	1	-	-	1	

The Judges' career paths are not rich. Their involvement in public life is mainly institutional. More specifically, twenty-two participate in one dimension; six participate in two dimensions, and only one judge participates in three dimensions. However, we should point out that fourteen of forty-one judges were promoted to the ranks of Vice-Presidents or President of the Supreme Courts by the executive. Therefore, their institutional involvement is relevant.

Table 6 Judges' broadness of involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	Subtotal	Total
I	16	3	-	1	20	22
F	1	-	-	1	2	
I+IF	3	1	-	-	4	
P+I	-	1	-	-	1	6
I+S	-	1	-	-	1	
P+I+IF	-	1	-	-	1	

High-ranking civil servants' career paths are quite rich. Their involvement in public life is significant since they participate in relevant dimensions of the index, that is, the political (7 of 21), and the institutional-financial dimensions (10 of 21). Interestingly enough, three high-ranking civil-servants combine the political and the civil society dimension. More specifically, ten participate in one dimension of the index; eight participate in two dimensions; two in three dimensions, and one in four dimensions.

Table 7 High-ranking civil servants' broadness of involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	Subtotal	Total
I	4	-	1	-	5	
IF	2	-	1	2	5	10
P+I	3	-	1	-	4	
I+IF	4	-	-	-	4	8
P+I+S	-	-	-	-	1	
P+S+CS	-	-	1	-	1	2
P+I+IF+CS	-	-	1	-	1	1

Free-lance professionals' career paths are quite rich. The combinations of their participation in the dimensions of the involvement index are interesting since they participate in the political (10 of 15) and the civil society dimensions (6 of 15). In three cases the political and civil society dimensions are combined. More specifically, two participate in four dimensions and one participates in three dimensions of the index; seven participate in two dimensions; and five participate in one dimension of the index.

Table 8 Free-lance professionals' broadness of involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	TOTAL	Involvement Accumulation
P	-	-	-	2	2	
IF	-	-	1	1	1	
CS	-	-	-	1	1	
I	1	-	-	-	1	5
P+I	1	1	-	1	3	
P+F	1	-	-	-	1	
P+CS	-	-	-	1	1	
I+CS	-	1	-	-	1	6
I+S+CS	-	-	1	-	1	
P+I+CS	-	1	-	-	-	2
P+I+IF+S	-	-	1	-	1	
P+I+S+CS	-	-	1	-	1	2

The career paths of the lawyers' with a salary mandate are rich. They equally participate in important dimensions of the involvement index, that is, the political (1 of 2), and the institutional-financial (2 of 2). More specifically, one participates in three dimensions of the index and one participates in four dimensions.

Table 9 Lawyers' with a salary mandate broadness of involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	TOTAL	Involvement Accumulation
I+IF+S	-	-	1	-	1	1
P+I+IF+S	-	1	-	-	1	1

The career paths of the legal Councillors of State are not rich. Their involvement is mainly institutional. However, we should also point out that two of three were appointed to the rank of Vice-President of the Legal Council of State by the Cabinet. Therefore, their institutional involvement is relevant.

Table 10 Legal Councillors' of State involvement in public life

Variation of involvement	Supreme Council for the Selection of Personnel	Hellenic Data Protection Authority	The Greek Ombudsman	Hellenic Authority for Communication, Security, and Privacy	Subtotal	Total
I	2	-	-	-	2	2
P+I	1	-	-	-	1	1

The intensity of involvement in public life measures how many times a member appears in the index, irrespective of the type of involvement. Table 11 shows the intensity of involvement in public life by professional status. Judges are not present in the high scale, whereas Legal Councillors of State appear only in the low scale. University Professors once more surpass the other professional categories since the majority pertain to the medium and high scales. Lawyers with a salary mandate also have presence only in the medium and high scales despite their small number. Finally, the overwhelming majority pertain to the low scale, whereas 28 members appear in the medium scale and 12 members appear in the high scale.

Table 11 The members' Intensity of Involvement in public life by professional status

Professional status	Intensity of involvement		
	low	medium	high
Judges	27	4	-
University professors	15	16	8
High-ranking Civil Servants	16	3	2
Legal Councillors of state	3	-	-
Free-lance professionals	11	4	1
Lawyers with a salary mandate	-	1	1
total	72	28	12

As for the functional accumulation status, university professors is the only professional category that simultaneously combines the two facets of the concept of functional accumulation, that is, cases according to which the members, while serving on the authorities, exercise a public function and a private profession combined with appointments to the various public posts comprised in the involvement in public life index. The high-ranking civil servants CS9, CS11 from the Supreme Council for the Selection of Personnel equally combine the two facets of functional accumulation. The members coming from the other professional categories fulfill the requirements of the second facet of the functional accumulation status, that is, they appear in the involvement in public life index during their mandate in the authorities. Furthermore, we should point out that the administrative acts published in the government gazette regarding the members' appointments to the various posts in the public sector as comprised in the involvement in public life index also provide for the remuneration of the appointees.

However, irregular cases of functional accumulation in relation to the incompatibilities set out in legislation are not missing. Some striking cases are presented hereafter. During her mandate, the alternate member FP15 of the Hellenic Data Protection Authority simultaneously served as special adviser on issues of Organisation and Management on the Political Bureau of the Prime Minister Konstantinos Simitis. The alternate member FP36 of the Hellenic Data Protection Authority was simultaneously a member of the teaching staff under contract i) at the Department of Political Science and International Relations, University of Peloponnese, and ii) the Department of Marketing and Communication, Athens University of Economics and Business. The alternate member LM39 of the Hellenic Data Protection Authority simultaneously served as special collaborator at the Political Bureau of the Minister of the Interior¹⁰⁰⁴ while exercising his main duties as lawyer with a salary mandate at the General Hospital of Athens Hippokrateion. In our opinion, par. 5, article 3 of the executive law of the constitution on the independent constitutional authorities 3051/2002 was violated in all the above mentioned cases. The article provides that "the members are suspended from the exercise of any public function, as well as the exercise of duties in public services, public law legal entities, and legal entities of the broader public sector".

¹⁰⁰⁴ He submitted his resignation six months after his appointment to the authority.

The Deputy Ombudswomen LM6 and FP8 seem to have violated the relevant clause provided for in law 3094/2003¹⁰⁰⁵. During her mandate, the Deputy Ombudswoman LM6 was member of the management board of the Public Enterprise for Urban Planning and Housing, whereas the Deputy Ombudswoman FP8 was a member of the teaching staff under contract at the Athens Law School. Finally, the alternate member FP18 of the Hellenic Authority for Communication, Security and Privacy worked as a lawyer during his mandate. However, according to article 4 par. 3 of the law 3115/2003 the exercise of any other public office or profession is suspended, and it is *not allowed to assume other duties, paid or not, in the public or the private sector*.

¹⁰⁰⁵ Article 2 par. 4 of the law 3094/2003 reads as follows: *“During the term of office of the Deputy Ombudsmen, the exercise of any other public office is suspended, as well as the exercise of any other duties in any position in the public sector, public law legal entities, and legal entities of the broader public sector. Deputy Ombudsmen work under conditions of full-time and exclusive employment and may not assume any other professional activity. Deputy Ombudsmen may, however, work part-time as members of the teaching staff of universities”*.

Appendices

Chapter 3

APPENDIX 1, Table 1

Supreme Council for the Selection of Personnel Database on the Transferred Administrative Personnel																				
S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in the Committee in the Public Sector	Transfers, Secondments from ASEPs/New Appointments in the Public Sector
1	1995	C40 24.2.1995	M. P.	?	?	?	Greek Technology Industry, Energy and Constructions and Technology S.A.		Public Anonymous Company	vacant chart position	Regular	?	U.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Industry, Energy and Technology	NO		
2	1995	C40 24.2.1995	E.K.-K	?	?	?	Greek Technology Industry, Energy and Constructions and Technology S.A.		Public Anonymous Company	vacant chart position	Regular	?	U.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Industry, Energy and Technology	NO		
3	1995	C40 24.2.1995	A. G.	?	?	?	Greek Technology Industry, Energy and Constructions and Technology S.A.		Public Anonymous Company	vacant chart position	Regular	?	S.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Industry, Energy and Technology	NO		
4	1995	C121 8.6.1995	K. S-K.	Regular	B	U.E. Administration-Finance	General Navy Staff	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Defence	YES		
5	1995	C121 8.6.1995	E.T.	Regular	C	U.E. Informatics	General Navy Staff	Ministry of Defence	Public Service	vacant chart position	Regular	C	U.E. Informatics			Joint Ministerial Decision	Ministries of the Presidency&Defence	YES		
6	1995	C121 8.6.1995	S.P.	Regular	B	S.E. Administration-Accounting	General Navy Staff	Ministry of Defence	Public Service	vacant chart position	Regular	B	S.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Defence	YES		

S.N.	Year	Government Gazette, Vol, No of issue- Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category amd Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legalit y of the transfe r	Partici pation in Comm tees in the Public Sector	Transfers, Secondme nts from ASEP/New Appointme nts in the Public Sector
7	1995	C137 29.6.1995	A. D.	Regular	A	?	Office of the Prosecutor of the Hellenic Supreme Court of Civil and Penal Law	Ministry of Justice	Public Service	vacant chart position	Regular	A	?			Joint Ministerial Decision	Ministries of the Presidency&Justice	C.C.	Since 1998 Council or of Asep (G. G. vol. C, no 20, 9.02.19 98) Retime nt from the Public Service (G.G. vol. C, no 135, 17.6.20 03)	

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEPs/New Appointments in the Public Sector
8	1995	C172 17.8.1995	S. T.	Regular	B	U.E. Administration-Finance	Pension Fund of Motorists of the Prefecture of Serres	Health, Welfare and Social Security	Public law legal entity	vacant chart position	Regular	B	U.E. Administration			Joint Ministerial Decision	Ministries of the Presidency&Health, Welfare and Social Security	YES		*
9	1996	C7 16.1.1996	G.B.	Regular	D	C.E. Cleansing	Ministry of Interior, Public Administration and Decentralisation(General Secretariat of Public Administration)	Ministry of Interior, Public Administration and Decentralisation(General Secretariat of Public Administration)	Public Service	vacant chart position	Regular	D	C.E. Cleansing Personnel			Ministerial Decision	Ministry of Interior, Public Administration and Decentralisation	YES		
10	1996	C41 29.2.1996	E.S.	Regular	B	U.E. Administration	Organisation for the Publishing of School Books	Ministry of National Education and Religious Affairs	Public law legal entity	vacant chart position	Regular	B	U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration and Decentralisation & National Education and Religious Affairs	YES		
11	1996	C97 16.5.1996	A. M.	Regular	C	C.E. Caretaker	General Army Staff	Ministry of Defence	Public Service	vacant chart position	Regular	C	C.E. Auxiliary Staff			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
12	1996	C107 5.6.1996	S. G.	Employee with mandate	?	S.E. No Branch	General Secretariat of the Cabinet	The Prime Minister	Autonomous Public Service	vacant chart position	Regular	C	S.E. Typists		S.E. Computer Operators G.G. vol. 156, 30.7.1997	Decision signed by the Prime Minister and the Minister of Interior Public Administration and Decentralisation	General Secretariat of the Cabinet and Ministry of the Interior, Public Administration and Decentralisation	NO		

*8. Transfer to the Region of Central Macedonia (1999). Prefectural Councillor of Serres with the party of PASOK (2003-2010) Collaborator of two parliamentarians of Serres from the party of PASOK. General Secretary of the Municipality of Serres (January 2011). Source: Official Website of the Prefectural Self-Administration of Serres, available at: <http://www.naserron.gr/epafes.php?id=1086&sub=show>, date of access: 9.4.2011

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
13	1996	C108 5.6.1996	M. G.	Employee with mandate	?	S.E. No Branch	General Secretariat of the Cabinet	The Prime Minister	Autonomous Public Service	vacant chart position	Regular	C	S.E. Typists		S.E. Computer Operators G.G. vol. 156, 30.7.1998	Decision signed by the Prime Minister and the Minister of Interior Public Administration and Decentralisation	General Secretariat of the Cabinet (Prime Minister) and Ministry of the Interior, Public Administration and Decentralisation	NO		Transfer to the Prefecture of Fthiotida (Since 2011: Region of Central Greece) Source: The Official Website of the Prefecture of Phthiotida, available at: http://portal.nafthiotidas.gr/media/file_s/Topothetisi_Ypallilon_Perif_Stereas_se_Dief_Perif_Enot_Viotias.pdf , date of access: 8.4.2011
14	1996	C252 27.12.1996	M. L.	Regular	B	U.E. Informatics	Ministry of National Defence	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
15	1996	C252 27.12.1996	M.-M.D.	Regular	B	U.E. Administration	Ministry of National Defence	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation	YES		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
16	1996	C253 27.12.1996	E. S.	?	?	?	Greek Iron Mixtures S.A.	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
17	1996	C253 27.12.1996	M. K.	?	?	?	Greek Iron Mixtures S.A.	Ministry of Development	Public Anonymous Company	vacant chart position	Regular		S.E. Computer Programmers-Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
18	1996	C253 27.12.1996	E. P.	Regular	B	U.E. Administration	Ministry of Public Order	Ministry of Public Order	Public Service	vacant chart position	Regular		U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Public Order	YES		
19	1996	253 27.12.1996	A. K.	Regular	C	S.E. Administration	National Intelligence Service	Ministry of the Interior, Public Administration and Decentralisation	Public Autonomous Service	vacant chart position	Regular	C	S.E. Administration			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	NO		Transfer to the Greek Parliament (G.G. vol. C, no 136 11.5.2004)
20	1997	C12 22.1.1997	S. A.	?	?	?	Piraiiki-Patraiki SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
21	1997	C12 22.1.1997	D. A.	?	?	?	Greek Company of Industrial and Mining Activities SA (ELEVME)	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Programmers-Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
22	1997	C23 17.2.1997	K. D.	Regular	B	U.E. Informatics	Ministry of National Defence	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
23	1997	C23 17.2.1997	S. P.	Regular	C	U.E. Administration	Ministry of National Defence	Ministry of Defence	Public Service	vacant chart position	Regular	C	U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		

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24	1997	C69 1.4.1997	E. B.	Regular	A	U.E. Administration-Finance	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation	Public Service	vacant chart position of Director at the Directorate A of ASEP	Regular	A	U.E. Administration-Finance			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	YES	*	
25	1997	C86 23.4.1997	K. S.	Term of Office (Private Law of Indefinite Time)	No grade	S.E. Administration	Centre of Innovation SA (KEKA)	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	S.E. Administration	Regular. Grade C (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		Retirement from the service (31.12.2008) G.G. vol. C, no 7, 7.1.2009)
26	1997	C87 23.4.1997	K. P.	Term of Office (Private Law of Indefinite Time)	No grade	S.E. Administration	Centre of Innovation SA (KEKA)	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
27	1997	C133 2.7.1997	G. L.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	U.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Services	NO		
28	1997	C133 2.7.1997	N. M.	Term of Office (Private Law of Indefinite Time)	?	?	Shipyards of Elefsina SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	S.E. Administration	Regular Grade B (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
29	1997	C133 2.7.1997	I. T.	Term of Office (Private Law of Indefinite Time)	?	?	Shipyards of Elefsina SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	T.E. Administration-Accounting	Regular Grade B (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		

* 24 Member of the Working Group constituted at the Ministry of the Presidency of the Government on the elaboration of a Report on the Reform and Modernisation of Public Administration published in 1990 Source: Makrydimitris A., Michalopoulos, N. (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000)Source: Makrydimitris A., Michalopoulos, N. (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000)

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30	1997	C133 2.7.1997	G. L.	Term of Office (Private Law of Indefinite Time)	?	?	Shipyards of Elefsina SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	S.E. Administration	Regular. Grade B (G.G. vol. C, no 48, 6.3.2000)	S.E. Computer Programmers (G.G. vol. C, no 135, 17.6.2003)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
31	1997	C133 2.7.1997	V. M.	Term of Office (Private Law of Indefinite Time)	?	?	Shipyards of Elefsina SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	S.E. Administration		T.E. Administration-Accounting (G.G. vol. C, no 133, 12.5.2000)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
32	1997	C143 11.7.1997	E. L.	Term of Office (Private Law of Indefinite Time)	?	?	Shipyards of Elefsina SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	?	Regular. S.E. Administration, Grade C (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
33	1997	C166 14.8.1997	A. V.	Term of Office (Private Law of Indefinite Time)	?	?	Foundation of Mediterranean Studies	Ministry of Culture	Private law legal entity	vacant chart position	Regular	D	U.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Culture	NO		Transfer to the Ministry of Economy and Finance (G.G. vol. C, no 296, 29.12.2003)
34	1998	C5 15.1.1998	G. B.	?	?	U.E. Graduate of the Panteion University School of Social and Political Sciences	Ministry of Interior, Public Administration, and Decentralisation	Ministry of Interior, Public Administration, and Decentralisation	Public Service	vacant chart position	Regular	?	U.E. Administration			Ministerial Decision	Ministry of Interior, Public Administration and Decentralisation	C.C.		Appointed in the Public Primary Education (G.G. vol. C, no 191, 20.9.1999)
35	1998	C16 30.1.1998	C. V.	Regular	D	C.E. Worker	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	D	C.E. Auxiliary Staff			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	C.C.		

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36	1998	C16 30.1.1998	I. G.	Term of Office (Private Law of Indefinite Time)	No grade	C.E. Worker of General Duties	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	E	C.E. Auxiliary Staff			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	NO		
37	1998	C16 30.1.1998	S. B.	Regular	A	U.E. 9 Management	Ministry of Agriculture	Ministry of Agriculture	Public Service	vacant chart position	Regular	A	U.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture	YES		
38	1998	C22 10.2.1998	E. P.	Term of Office (Private Law of Indefinite Time)	No grade	C.E. Cleansing	Organisation of the Central Market of Athens (OKAA)	Ministry of Development - Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	E	C.E. Cleansing Personnel			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture & Development	NO		
39	1998	C28 16.2.1998	I. M.	?	?	?	Hellenic Organisation of Small and Medium Enterprises and Handicraft (EOMMEX)	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
40	1998	C33 24.2.1998	P.G.	Regular	B	?	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
41	1998	C33 24.2.1998	A. T.	Regular	B	?	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
42	1998	C33 24.2.1998	S. M.	Regular	B	?	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
43	1998	C33 24.2.1998	A. V.	Regular	A	?	General Army Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	A	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		

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44	1998	C33 24.2.1998	E. L.	Regular	B	?	General Navy Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
45	1998	C39 3.3.1998	G. K.	Regular	B	T.E. Administration-Accounting	General Air Force Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
46	1998	C39 3.3.1998	N. A.	Regular	B	T.E. Administration-Accounting	General Air Force Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
47	1998	C42 5.3.1998	L. F.-P.	?	?	?	Foundation of Mediterranean Studies	Ministry of Finance	Public benefit non-profit foundation	vacant chart position	Regular	D	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence & Culture	NO		
48	1998	C42 5.3.1998	K. T.	?	?	?	General Mining and Metallurgical Company SA (LARKO)	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
49	1998	C42 5.3.1998	I. P.	?	?	?	Athens Paper Mill SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		

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50	1998	C42 5.3.1998	A. B.	?	?	?	Athens Paper Mill SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		Secondment to the Political Bureau of the Minister of Finance and Economics starting from 11.2.2002 (G.G. vol. C, no 35, 13.2.2002) Renewal of the secondment starting from 29.12.2003 (G.G. vol. C, no 5, 13.1.2004) Transfer to the Ministry of Economy and Finance (G.G. vol. C, no 296, 29.12.2003)
51	1998	C42 5.3.1998	N. L.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		

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52	1998	C43 5.3.1998	V. M.	Regular	A	U.E. Administration-Finance	Army Pension Fund	Ministry of Defence	Public law legal entity	vacant chart position	Regular	A	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
53	1998	C43 5.3.1998	D. S.	Regular	B	U.E. Administration-Finance	Band Staff of the Minister of Defence (EPYETHA)	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
54	1998	C43 5.3.1998	M. K.	Regular	B	U.E. Administration-Finance	General Air Force Staff	Ministry of Defence	Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
55	1998	C43 5.3.1998	K. M.	Regular	B	U.E. Administration-Finance	General Air Force Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Defence	YES		
56	1998	C51 13.3.1998	D. T.	?	?	?	Tzaneio Regional General Hospital of Piraeus	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	C	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	C.C.		
57	1998	C51 13.3.1998	G. A.	?	?	?	Third Athens Hospital of Chronic Diseases	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	C.C.		
58	1998	67 9.4.1998	A. F.	?	?	?	Public Power Enterprise	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
59	1998	C67 9.4.1998	M. A.	?	?	?	Athens Paper Mill SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists - Word Processing			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
60	1998	C67 9.4.1998	M. A.	?	?	?	Public Power Enterprise SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		

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61	1998	C67 9.4.1998	D. M.	?	?	?	Organisation for the Economic Reconstruction of Enterprises SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists - Word Processing			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
62	1998	C67 9.4.1998	E. L.	Regular	The grade possessed	?	Ministry of Development	Ministry of Development	Public Service	vacant chart position	Regular	GP	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	YES		Secondment to the Office of Organisation and Management of the Prime Minister (1998-2003) (G.G. vol. 74, 23.4.1998) Secondment to the General Secretariat of the Cabinet as Special Collaborator (G.G. vol. C, no 77, 31.3.2003) Revocation of the secondment by the new Prime Minister K. Karamanlis (G.G. vol. C, no 73, 17.3.2004)

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63	1998	C72 23.4.1998	E. C.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity	vacant chart position	Regular	D	S.E. Typists - Word Processing		U.E Management- Economics (G.G. vol. C, no 986, 10.12.2009)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
64	1998	C72 23.4.1998	Z. P.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity	vacant chart position	Regular	D	S.E. Typists - Word Processing		S.E. Computer Operators (G.G. vol. C, no 219, 20.8.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
65	1998	C72 23.4.1998	N. P.	?	?	?	Company for Agricultural Development "Evritania SA"	Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture	NO		
66	1998	C87 15.5.1998	D. K.	?	?	?	Foundation of Social Work	Ministry of Health and Welfare	Public benefit non-profit foundation	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	NO		
67	1998	C90 19.5.1998	N. K.	Regular	The grade possesses	?	Regional General Hospital for Thoracic (Chest) Diseases "The Salvation" (Sotiria)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
68	1998	C106 11.6.1998	M. S.	?	?	?	Court of First Instance of Athens	Ministry of Justice	Autonomous Public Service	vacant chart position	Regular	A	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Justice	C.C.		

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69	1998	C116 24.6.1998	A. S.	Term of Office (Private Law of Indefinite Time)	No grad	?	Hellenic Shipyards SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	?	Regular. S.E. Administration , Grade B (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
70	1998	C116 24.6.1998	P. A.	Term of Office (Private Law of Indefinite Time)	No grad	?	Hellenic Shipyards SA	Ministry of Finance	Public Anonymous Company	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	?	Regular, S.E. Administration Grade B (G.G. vol. C, no 48, 6.3.2000)		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
71	1999	C103 17.5.1999	A. T.	?	?	?	Greek Arms Industry SA	Ministry of Defence	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Programmers			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
72	1999	C103 17.5.1999	M. V.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
73	1999	C115 7.6.1999	C. K.	?	?	?	ETHNODATA SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Programmers			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	NO		
74	1999	C115 7.6.2000	K. D.	?	?	?	Centre for Infectious Diseases Control (KEELPNO)	Ministry of Health and Welfare	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	NO		
75	1999	C122 15.6.1999	K. T.	?	?	?	Company for Agricultural Development "Evritania SA"	Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture	NO		
76	1999	C122 15.6.1999	I. C.	?	?	?	Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	C	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	C.C.		

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77	1999	C122 15.6.1999	C. M.	?	?	?	Ministry of Culture	Ministry of Culture	Public Service	vacant chart position	Regular	C	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Culture	C.C.		
78	1999	C125 21.6.1999	E. Z.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
79	1999	C125 21.6.1999 Corrected G.G: 140, 8.7.1999	A. M.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
80	1999	C125 21.6.1999 Corrected: 140, 8.7.1999	K. P.	?	?	?	Export Credit Insurance Organisation	Ministry of Finance	Private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Economy	NO		
81	1999	C125 21.6.1999	A. P.	Regular	The grade possessed	?	Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
82	1999	C125 21.6.1999	G. V.	Regular	The grade possessed	?	Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		

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83	1999	C125 21.6.1999	I. L.	Regular	The ? grade pos- ses- sed		Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
84	1999	C125 21.6.1999	K. M.	Regular	The ? grade they pos- ses- s		Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
85	1999	C125 21.6.1999	E. K.	Regular	The ? grade pos- ses- sed		Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
86	1999	C125 21.6.1999	C. T.	Regular	The ? grade pos- ses- sed		Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	YES		
87	1999	C125 21.6.1999	E. D.	?	? ?		Organisation Against Drugs	Ministry of Health and Welfare	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	NO		
88	1999	C134 1.7.1999	G. P.	?	? ?		Greek Radio and Television SA	Ministry of Press and Mass Media	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Press and Mass Media	NO		
89	1999	C134 1.7.1999	M. P.	?	? ?		Greek Post S.A.	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		

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90	1999	C134 1.7.1999	E. P.	?	?	?	Hellenic Railways Organisation SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
91	1999	C134 1.7.1999	M. S.	?		Gra de pos ses sed	Piraeus Port Authority	Ministry of Commercial Shipping	Public Anonymous Company	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Commercial Maritime/Shipping	C.C.		
92	1999	C134 1.7.1999	C. K.- T.	?	?	?	Olympic Airways SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
93	1999	C134 1.7.1999	D. L.	?	?	?	Greek Salt Pits SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists				Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
94	1999	C145 15.7.1999	D. G.	?	?	?	Greek Arms Industry SA	Ministry of Defence	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	NO		
95	1999	C145 15.7.1999	O. N.	?	?	?	Greek Salt Pits SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
96	1999	C153 27.7.1999	I. B.	?	?	?	Greek Arms Industry SA	Ministry of Defence	Public Anonymous Company	vacant chart position	Regular	D	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	NO		

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97	1999	C153 27.7.1999	M. P.	?	?	?	Athens Hospital of Chronic Diseases for Children	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	C	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	C.C.		
98	1999	C183 6.9.1999	A. D.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
99	1999	C183 6.9.1999	E. F.	?	?	?	General Mining and Metallurgical Company SA (LARKO)	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
100	1999	C199 4.10.1999	M. K.	?	?	?	Organisation of the Central Market of Athens (OKAA)	Ministry of Development - Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	C	S.E. Typists		U.E. Administration-Finance (G.G. vol. C, no 160, 11.6.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture & Development & Finance	NO		
101	1999	C199 4.10.1999	K. A.	?	The grade possessed	Regular?	Organisation of the Central Market of Athens (OKAA)	Ministry of Development - Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture & Development & Finance	C.C.		
102	1999	C215 27.10.1999	G. B.	?	?	?	National Statistical Service of Greece	Ministry of Finance	Public law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Finance	C.C.		
103	1999	C252 15.12.1999	O. A.	Regular	The grade possessed	?	General Air Force Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	YES		

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104	2000 C20 3.2.2000	A. D.		?	?	?	State Nursery Station of Rethymnon	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	C.C.		Transfer to the Region of Epirus (G.G. vol. C, no 45, 4.3.2003)
105	2000 C159 6.6.2000	V. R.		Regular	The grade possessed	?	Court of First Instance of Thessaloniki	Ministry of Justice	Autonomous Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Justice	C.C.		
106	2000 C159 6.6.2000	G. T.		Regular	The grade possessed	?	Court of First Instance of Athens	Ministry of Justice	Autonomous Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Justice	C.C.		
107	2000 C183 27.6.2000	M. F.		Regular	The grade possessed	?	General Navy Staff	Ministry of Defence	Autonomous Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	YES		Transfer to the General Accounting Office of the State (Ministry of Economy and Finance (G.G. vol. C, no 10, 16.1.2004)

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108	2000	C297 20.10.2000	M. C.	?	?	?	Ministry of Foreign Affairs	Ministry of Foreign Affairs	Public Service	vacant chart position	Regular	D	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	C.C.		Revocation of the appointment . Decision 17 of ASEP in Plenum Source: Annual Report of ASEP for the year 2001 (G.G. vol. B, no 1427, 13.11.2002)
109	2000	C360 29.12.2000	M. K.	?	?	?	Agricultural Insurance	Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture	NO		Submission of resignation: 2.5.2008 (G.G. vol. C. no 528, 5.6.2008)
110	2000	C86 20.3.2001	G. K.	?	?	?	Centre for Infectious Diseases Control (KEELPNO)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	NO		
111	2001	C77 9.3.2001	K. A.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		

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112	2001	C77 9.3.2001	M. D.	Regular	Grade possessed	?	Court of First Instance of Athens	Ministry of Justice	Autonomous Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Justice	C.C.		
113	2001	C143 24/5/2001	D. S.	?	?	?	Athens Paper Mill SA	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	T.E. Informatics (Hardware)			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
114	2001	C146 30.5.2001 Corrected: G.G. C172, 29.6.2001	D. D.	Regular	The grade possessed	?	Postal Savings	Ministry of Transport and Communications	Decentralised Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	YES		
115	2001	C146 30.5.2001	E. C.	?	?	?	Export Credit Insurance Organisation	Ministry of Finance	Private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Economy	NO		
116	2001	C146 30.5.2002	K. T.	?	?	?	Export Credit Insurance Organisation	Ministry of Finance	Private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Economy	NO		
117	2001	C259 22.10.2001	D. R.	Regular	The grade possessed	?	Hellenic Centre for Marine Research	Ministry of Development	Public law legal entity	vacant chart position	Regular	GP	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	YES		
118	2001	C262 22.10.2001	M. V.	Regular	The grade possessed	?	Foundation of Social Security (IKA)	Ministry of Health and Welfare	Public law legal entity	vacant chart position	Regular	GP	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	YES		

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119	2001	C262 22.10.2001 Corrected:GG, C292, 26.11.2001	G. C.	Term of Office (Private Law of Indefinite Time)	?	?	Greek National Tourism Organisation (EOT-GNTO)	Ministry of Finance	Public law legal entity	Personal position beyond the chart	Term of Office (Private Law of Indefinite Time)	NG	C.E. Caretakers			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development & Economics	C.C.		
120	2001	C305 10.12.2001	E. G.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	Private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	S.E. Typists		S.E. Computer Operators (G.G. vol. C, no 219, 20.8.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
121	2001	C314 14.12.2001	C. P.	?	?	?	General Mining and Metallurgical Company SA (LARKO)	Ministry of Development	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists		S.E. Computer Operators (G.G. vol. C, no 219, 20.8.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	NO		
122	2001	C314 14.12.2001	T. P.	?	?	?	PINDOS SA	Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture	NO		
123	2001	C314 14.12.2001	A. K.	?	?	?	Olympic Airways SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists		S.E. Computer Operators (G.G. vol. C, no 219, 20.8.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
124	2001	C314 14.12.2001	S. G.	?	?	?	Centre for Vocational Training and Research of the Prefecture of Magnesia	Ministry of Interior, Public Administration, and Decentralisation	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists		U.E. Administration-Finance (G.G. vol. C, no 158, 11.6.2006)	Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	NO		

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125	2002	C22 31.1.2002	E. M.	Regular	The grade possessed	?	Organisation of the Central Market of Athens (OKAA)	Ministry of Development - Ministry of Agriculture	Public Anonymous Company	vacant chart position	Regular	GP	S.E. Typists		S.E. Administration (G.G. vol. C, no160, 11.6.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Agriculture & Development & Finance	C.C.		Retirement from the service (31.12.2008) G.G. vol. C, no 7, 7.1.2009)
126	2002	C75 13.3.2002	I. B.	Regular	The grade possessed	?	Ministry of Interior, Public Administration, and Decentralisation	Ministry of Interior, Public Administration, and Decentralisation	Public Service	vacant chart position	Regular	GP	S.E. Drivers	S.E. Administration , with the duty to receive the public (G.G. vol. C, no 10, 16.1.2004)		Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	YES		
127	2002	C75 13.3.2002	M. G.	?	?	?	Prefecture of Athens	Ministry of Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	D	S.E. Administration		U.E. Administration-Finance (G.G. vol. C, no 158, 11.6.2006)	Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
128	2002	C79 21.3.2002	A. N-A.	?	?	?	Traders' Insurance Fund	Ministry of Labor and Social Security	Public law legal entity	vacant chart position	Regular	A	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	C.C.		
129	2002	C80 21.3.2002	M. L.	?	?	?	Economic and Social Committee	Ministry of Finance	Private law legal entity	vacant chart position	Regular	D	S.E. Administration		U.E. Administration-Finance (G.G. vol. C, no 988, 29.11.2007)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Economy and Finance	NO		
130	2002	C80 21.3.2002	P. O.	?	?	?	National Youth Foundation	Ministry of National Education and Religious Affairs	Private law legal entity	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Education and Religious Affairs	NO		

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131	2002	C92 5.4.2002	G. C-A.	?	?	?	Hellenic Aerospace Industry SA	Ministry of Finance	Public Anonymous Company	vacant chart position	Regular	D	S.E. Administration		U.E. Administration-Finance (G.G. vol. C, no 117, 1.3.2007)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Economy and Finance	NO		
132	2002	C93 10.4.2002	E. R.	?	?	?	Greek Post S.A.	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
133	2002	C119 17.5.2002	A. G.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		
134	2002	C119 17.5.2002	E. P.	Regular	The grade possesses	?	Anonymous Company for the Exploitation and Management of Greek Highways (TEO SA)	Ministry of Environment, Planning and, Public Works	Public Anonymous Company	vacant chart position	Regular	GP	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Environment, Planning, and Public Works	C.C.		

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135	2002	C119 17.5.2002	K. K.	?	?	?	Athens Business Chamber	Ministry of Development	Public law legal entity	vacant chart position	Regular	A	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Environment, Planning, and Public Works	C.C.		Transfer to the Office of the Directorate of Secondary Education of the island of Lesvos (G.G. vol. C, no 181, 7.7.2004)
136	2002	C119 17.5.2002	D. S.	Regular	The ? grade possesses	?	Municipality of Loutropolis (island of Lesvos)	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Environment, Planning, and Public Works	C.C.		
137	2002	C119 17.5.2002	E. K.	?	?	?	National Youth Foundation	Ministry of National Education and Religious Affairs	private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Education and Religious Affairs	NO		
138	2002	C124 29.5.2002	F. M.	?	?	?	Ministry of Public Order	Ministry of Public Order	Public Service	vacant chart position	Regular	B	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Public Order	C.C.		
139	2002	C129 5.6.2002 Corrected: C160, 15.7.2002	I. T.	?	?	?	Organisation Against Drugs (OKANA)	Ministry of Health and Welfare	Private law legal entity	vacant chart position	Regular	E	C.E. Auxiliary Staff		S.E. Administration (G.G. vol. C, no160, 11.6.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Health and Welfare	NO		

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140	2002	C129 5.6.2002	D. P.	?	?	?	Greek Post S.A. (ELTA)	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
141	2002	C142 21.6.2002	E. G.	?	?	?	National Statistical Service of Greece	Ministry of Finance	Public law legal entity	vacant chart position	Regular	C	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Economy and Finance	C.C.		
142	2002	C143 21.6.2002	T. K.	?	?	?	Traders' Insurance Fund	Ministry of Labor and Social Security	Public law legal entity	vacant chart position	Regular	A	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	C.C.		
143	2002	C143 21.6.2002	A. M.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	NO		
144	2002	C143 21.6.2002	B. X.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	NO		
145	2002	C143 21.6.2002	M. O.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	NO		
146	2002	C143 21.6.2002	E. L.-K.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	NO		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
147	2002	C143 21.6.2002	M. P.	?	?	?	Computer Centre for Social Services	Ministry of Labor and Social Security	Private law legal entity	vacant chart position	Regular	D	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	NO		
148	2002	C143 21.6.2002	E. D.	Regular	The grade possessed	?	Insurance Fund of Professionals and Craftsmen (TEVE)	Ministry of Labor and Social Security	Public law legal entity	vacant chart position	Regular	GP	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	YES		
149	2002	C166 18.7.2002 Corrected: G.G.175, 2.8.2002	A. A.	Regular	The grade possessed		Hellenic Competition Commission	Ministry of Development	Independent Authority (autonomous public service)	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	YES		
150	2002	C166 18.7.2002 Corrected: G.G.175, 2.8.2002	G. K.	Regular	The grade possessed		Hellenic Competition Commission	Ministry of Development	Independent Authority (autonomous public service)	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Development	YES		
151	2002	C166 18.7.2002	A. G.	?	?	?	Olympic Airways SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
152	2002	C166 18.7.2002	I. G.	?	?	?	Olympic Catering SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	E	C.E. Auxiliary Staff		S.E. Administration (G.G. vol. C, no160, 11.6.2004)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
153	2002		V. T.	Regular	The grade possessed	?	National Centre of Public Administration	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	C.E. Auxiliary Staff			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	YES		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
154	2002	C236 16.10.2002	N. D.	?	?	?	Greek Post S.A. (ELTA)	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	E	C.E. Auxiliary Staff		S.E Management (G.G. vol. C, no 169, 11.6.2004) U.E. Administration-Finance (G.G. vol. C, no 1150, 23.12.2008)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
155	2003	C3 10.1.2003	D. N.	Regular	The grade possessed	?	Prefectural Self-Administration of Athens-Piraeus, Prefectural Department of Piraeus	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	S.E. Computer Programmers			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
156	2003	C3 13.1.2003	S. L.	?	?	?	Insurance Fund of Professionals and Craftsmen (TEVE)	Ministry of Labor and Social Security	Public law legal entity	vacant chart position	Regular	D	S.E. Computer Programmers			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	C.C.		
157	2003	C37 21.2.2003	A. S.	Regular	The grade possessed	U.E. Administration Commercial	Ministry of Development (General Secretariat of Commerce)	Ministry of Development	Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Labor and Social Security	YES		
158	2003	C40 27.2.2003	D. I.	?	?	?	National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	Ministry of Foreign Affairs	private law legal entity (public benefit non-profit foundation)	vacant chart position	Regular	C	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Foreign Affairs	NO		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEPs/New Appointments in the Public Sector
159	2003	C51 27.2.2003	G. K.	?	?	?	National Youth Foundation	Ministry of National Education and Religious Affairs	Private law legal entity	vacant chart position	Regular	C	?	U.E. Administration-Finance G.G. vol. YODD, no 24, 27.1.2009		Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Education and Religious Affairs	NO		
160	2003	C56 11.3.2003	E. T.	Regular	The graduate possesses	S.E. Administration-Accounting	General Army Staff	Ministry of Defence	Public Service	vacant chart position	Regular	GP	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	YES		
161	2003	C56 11.3.2003	E. K.	Regular	The graduate possesses	S.E. Typists	General Army Staff	Ministry of Defence	Public Service	vacant chart position	Regular	GP	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	YES		
162	2003	C56 11.3.2003	E. P.	Regular	The graduate possesses	S.E. Administration-Accounting	National Statistical Service of Greece	Ministry of Finance	Public law legal entity	vacant chart position	Regular	GP	S.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Economy and Finance	YES		
163	2003	C56 11.3.2003	M. M.	Regular	The graduate possesses	T.E. Other Specialties	National Statistical Service of Greece	Ministry of Finance	Public law legal entity	vacant chart position	Regular	GP	S.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Economy and Finance	YES		
164	2003	C56 11.3.2003	E. K.	Regular	The graduate possesses	S.E. Administration-Accounting	Ministry of Agriculture	Ministry of Agriculture	Public Service	vacant chart position	Regular	GP	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Economy and Agriculture	YES		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
165	2003	C70 21.3.2003	S. F.	Regular	The grade possessed	?	Prefectural Self-Administration of Thessaloniki	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	T.E. Administration-Accounting			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
166	2003	C96 24.4.2003	A. A.	Regular	The grade possessed	?	Army Pension Fund	Ministry of Defence	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Defence	YES		
167	2004	C160 11.6.2004	M. V.	?	?	Computer Operators	Computer Centre for Social Services	Ministry of Employment and Social Protection	Private law legal entity	vacant chart position	Regular	B	S.E. Computer Operators			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	NO		
168	2004	C160 11.6.2004	O. K.	?	?	S.E.	Greek Post S.A. (ELTA)	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	B	S.E. Administration			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
169	2005	C22 3.2.2005	K. G.	Regular	The grade possessed	?	Prefecture of Piraeus	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	T.E. Informatics			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
170	2005	C30 14.2.2005	S.-A.M.	Regular	The grade possessed	?	Municipality of Egaleo	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	U.E. Informatics			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
171	2005	C40 3.2.2005	M. T.	Regular	The grade possessed	?	Ministry of the Interior (General Secretariat of Public Administration)	Ministry of the Interior, Public Administration, and Decentralisation	Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	YES		
172	2005	C40 3.2.2005	G. K.	Regular	The grade possessed	?	Municipality Pylareon of the island of Kefallonia	Ministry of the Interior, Public Administration, and Decentralisation	Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
173	2005	C89 5.4.2005	A. P.	Regular	The grade possessed	?	General Hospital "Evangelismos"	Ministry of Health and Solidarity	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Health and Solidarity	YES		
174	2005	C89 5.4.2005	I. S.	Regular	The grade possessed	?	Ministry of Public Order	Ministry of Public Order	Public Service	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Public Order	YES		
175	2005	C110 4.5.2005	A. K.	Regular	The grade possessed	?	Traders' Insurance Fund	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
176	2005	C110 4.5.2005	I. G.	Regular	The grade possessed	?	Supplementary/Auxiliary Security Fund for Employees of Pharmaceutical Operations	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
177	2005	C110 4.5.2005	F. P.	Regular	The grade possessed	?	Insurance Fund of Professionals and Craftsmen (TEVE)	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	C.E. Auxiliary Staff		In Service Transfer: Change of Category and Branch: S.E. Administration (G.G. vol. C, no 324, 6.12.2005)	Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment Social Protection	YES		
178	2005	C110 4.5.2005	K. G.	Regular	The grade possessed	C.E. Water Workers	Municipality of Agii Theodori (Prefecture of Corinth)	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	C.E. Auxiliary Staff			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
179	2005	C110 4.5.2005	I. G.	?	?	C.E. Cleansing Workers	Municipality of Athens	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	D	C.E. Auxiliary Staff			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
180	2005	C110 4.5.2005	C. T.	?	?	C.E. Cleansing Workers	Municipality of Elliniko	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	E	C.E. Auxiliary Staff		In Service Transfer: Change of Category and Branch: S.E. Administration (G.G. vol. C, no 1199, 17.12.2010)	Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
181	2005	C159 1.7.2005	D. F.	Regular	The grade possessed	?	Prefectural Self-Administration of Kefallonia-Ithaka	Ministry of the Interior, Public Administration, and Decentralisation	Public law legal entity	vacant chart position	Regular	GP	U.E. Informatics			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	C.C.		
182	2005	C254 27.9.2005	E. K.	Regular	The grade possessed	?	Securities and Exchange Commission	Ministry of Finance	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation	YES		REVOCATION

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEP/New Appointments in the Public Sector
183	2005	C254 27.9.2005	I. E.	Term of Office (Private Law of Indefinite Time)	?	U.E.	Olympic Airways SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		REVOCATION of Appointment , (G.G. vol. 300, 15.11.2005)
184	2005	C254 27.9.2005	I. T.	Term of Office (Private Law of Indefinite Time)	?	U.E.	Olympic Aviation SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
185	2005	C254 27.9.2005	E. P.	?	?	?	Olympic Airways Services SA	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	S.E. Typists			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
186	2005	C254 27.9.2005	D. Z.	?	?	U.E.	Thermal Bus Company/SA (ETHEL)	Ministry of Transport and Communications	Public Anonymous Company	vacant chart position	Regular	D	U.E. Informatics			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
187	2005	C270 12.10.2005	A. A.	Term of Office (Private Law of Indefinite Time)	?	U.E.	Technological Educational Foundation of Athens (TEI)	Ministry of National Education and Religious Affairs	Public law legal entity	vacant chart position	Regular	B	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	NO		
188	2005	C285 27.10.2005	G. K.	Regular	The ? graduate possessed	?	Hellenic Telecommunications and Post Commission	Ministry of Transport and Communications	Independent Authority (autonomous public service)	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Transport and Communications	YES		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	G r a d e	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	G r a d e	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in the Public Sector	Transfers, Secondments from ASEPs/New Appointments in the Public Sector
189	2005	C285 27.10.2005	E. B.	Regular	The ? grad e pos ses sed		Foundation of Social Security (IKA)	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	S.E. Typists			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
190	2005	C285 27.10.2005	E. A.	Term of Office (Private Law of Indefinite Time)	? U.E.		Organisation for the Payment and Control of Community Aid, Orientation and Guarantees (OPEKEPE)	Ministry of Rural Development and Food	Private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Rural Development and Food	NO		
191	2005	C285 27.10.2005	A. C.	?	? ?		Greek Company of Industrial and Mining Activities SA (ELEVME)	Ministry of Finance	Public Anonymous Company	vacant chart position	Regular	E	C.E. Auxiliary Staff			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Economics and Finance	NO		
192	2005	C326 14.12.2005	E. Y.	Regular	The ? grad e pos ses sed		Traders' Insurance Fund	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	T.E. Administration-Accounting			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
193	2005	C337 23.12.2005	M. P.	Regular	The ? grad e pos ses sed		Welfare Fund of Public Works Contractors	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	T.E. Administration-Accounting			Joint Ministerial Decision	Ministry of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
194	2005	C347 30.12.2005	S. D.	Term of Office (Private Law of Indefinite Time)	? ?		Anonymous Company for the Exploitation and Management of Greek Highways (TEO SA)	Ministry of Environment, Planning and, Public Works	Public Anonymous Company	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Environment, Planning, and Public Works	NO		

S.N.	Year	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Grade	Category and Branch	Releasing Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisational Chart	Working Status	Grade	Category and Branch	New Working Status (after legislative regulation)	In Service Transfers/New Category and/or Specialty	Type of transfer decision	Competent Public Bodies for the transfer	Legality of the transfer	Participation in Committees in the Public Sector	Transfers, Secondments from ASEPs/New Appointments in the Public Sector
195	2005	C347 30.12.2005	T. K.	Regular?	C	U.E. Administration-Finance	Anonymous Company for the Exploitation and Management of Greek Highways (TEO SA)	Ministry of Environment, Planning and, Public Works	Public Anonymous Company	vacant chart position	Regular	C	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Environment, Planning, and Public Works	C.C.		
196	2005	C347 30.12.2005	M-E. M.	Regular	The ? grade pos- ses- sed		Traders' Insurance Fund	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	U.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
197	2005	C347 30.12.2005	P. K.	Regular	The ? grade pos- ses- sed		Civil Servants' Welfare Fund	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	T.E. Informatics			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
198	2005	C347 30.12.2005	G. P.	Regular	The ? grade pos- ses- sed		Foundation of Social Security (IKA)	Ministry of Employment and Social Protection	Public law legal entity	vacant chart position	Regular	GP	T.E. Administration-Accounting			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	YES		
199	2005	C347 30.12.2005	M. Z.	Term of Office (Private Law of Indefinite Time)	?	U.E.	Greek Agricultural Insurance Organisation	Ministry of Agriculture	Private law legal entity	vacant chart position	Regular	D	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & Employment and Social Protection	NO		
200	2007	C1072 24.12.2007	E.K.	Regular	Gra- de pos- ses- sed	?	Athens School of Fine Arts	Ministry of National Education and Religious Affairs	Public law legal entity	vacant chart position	Regular	GP	U.E. Administration-Finance			Joint Ministerial Decision	Ministries of the Interior, Public Administration, and Decentralisation & National Education and Religious Affairs	YES		

APPENDIX 1, Table 2

Supreme Council for the Selection of Personnel
Database on the Directly Hired Administrative Personnel

S.N.	YEAR Government Gazette, Vol, No of issue-Date	Initials of the Name- Surname	Working Status	Category- Branch	G e r a d	Public Announce ment	New Appointment/ Transfer	In Service Transfer	Previous position
1	2004 C180, 6.7.2004	M. A.	Regular	U.E. Administration-Finance	D	no 1/2003 (G.G. vol. ASEP, no 532, 17.10.2003			
2	2004 C180, 6.7.2004	O. V.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
3	2004 C180, 6.7.2004	L. A.	Regular	U.E. Administration-Finance	D	Ann. 1/2003	Secondment to the National Statistical Service of Greece (2008-), Source: Diavgeia, available at: static.diavgeia.gov.gr/doc/4AΓΞ6ΣΙ-Y , date of access: 12.4.2011		
4	2004 C180, 6.7.2004	K. I.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
5	2004 C180, 6.7.2004	P. K.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
6	2004 C180, 6.7.2004	E. L.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
7	2004 C180, 6.7.2004	A. S.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
8	2004 C180, 6.7.2004	K. K.	Regular	T.E. Management- Accounting	D	Ann. 1/2003			
9	2004 C180, 6.7.2004	S. K.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
10	2004 C180, 6.7.2004	A. K.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
11	2004 C180, 6.7.2004	M. K.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
12	2004 C180, 6.7.2004	P. K.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
13	2004 C180, 6.7.2004	E.-A. V.	Regular	U.E. Administration-Finance	D	Ann. 1/2003	Ipso iure termination of the employment relationship since she was appointed member of the Expert Scientific Staff of ASEP (G.G. vol. C. no 951, 15.10.2008)		
14	2004 C180, 6.7.2004	P. D.	Regular	T.E. Informatics	D	Ann. 1/2003			
15	2004 C180, 6.7.2004	K. N.	Regular	U.E. Informatics	D	Ann. 1/2003			
16	2004 C180, 6.7.2004	T. S.	Regular	U.E. Administration-Finance	D	Ann. 1/2005			
17	2004 C180, 6.7.2004	M. Z.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
18	2004 C207, 6.7.2004	A. X.	Regular	T.E. Administration- Accounting	D	Ann. 1/2003			
19	2004 C207, 6.7.2004	E. B.	Regular	T.E. Administration- Accounting	D	Ann. 1/2003			

S.N.	YEAR Government Gazette, Vol, No of issue-Date	Initials of the Name- Surname	Working Status	Category- Specialty Branch	G r a d e	Public Announce ment	New Appointment/ Transfer	In Service Transfer	Previous position
20	2004 C207, 6.7.2004	C.-K. K.	Regular	S.E. Typists	D	Ann. 1/2003		U.E. Administration- Finance (G.G. vol. C, no 291, 27.4.2009)	Revocable employee to the Political Office of the Deputy Minister of National Education and Religious Affairs (G.G. vol. C, no 46, 6.3.2000)
21	2004 C207, 6.7.2004	A. K.	Regular	S.E. Typists	D	Ann. 1/2003			
22	2004 C280, 15.10.2004	A. L.	Regular	U.E. Administration-Finance	D	Ann. 1/2003			
23	2004 C330, 17.12.2004	I. D.	Regular	U.E. Informatics	D	Ann. 1/2003			
24	2007 C862, 30.10.2007	T. A.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
25	2007 C862, 30.10.2007	A. M.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
26	2007 C862, 30.10.2007	I. P.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
27	2007 C862, 30.10.2007	A. S.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
28	2007 C862, 30.10.2007	L. S.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
29	2007 C862, 30.10.2007	N. P.	Regular	U.E. Informatics	D	Ann. 13/2006			
30	2007 C862, 30.10.2007	E. L.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
31	2007 C862, 30.10.2007	A. C.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
32	2007 C1072, 24.12.2007	P. Z.	Regular	U.E. Informatics	D	Ann. 13/2006			
33	2008 C28, 16.1.2008	I. K.	Regular	U.E. Administration-Finance	D	Ann. 13/2006			
34	2008 C209, 5.3.2008	G. S.	Regular	U.E. Informatics	D	Ann. 13/2006			
35	2009 C1069, 31.12.2009	S. P.	Regular	U.E. Administration-Finance	D	Ann. 11/2008			
36	2009 C1069, 31.12.2009	M. P.	Regular	U.E. Administration-Finance	D	Ann. 11/2008			
37	2009 C1069, 31.12.2009	E. G.	Regular	U.E. Administration-Finance	D	Ann. 11/2008			
38	2009 C1069, 31.12.2009	K. T.	Regular	U.E. Administration-Finance	D	Ann. 11/2008			
39	2009 C1069, 31.12.2009	A. P.	Regular	S.E. Management	D	Ann. 11/2008			Resigned from her position at the Athens Chamber of Commerce and Industry G.G. vol. C, no 127, 23.2.2010)
40	2009 C1069, 31.12.2009	K. A.	Regular	S.E. Management	D	Ann. 11/2008			
41	2009 C1069, 31.12.2009	E. C.	Regular	S.E. Management	D	Ann. 11/2008			
42	2010 C1199, 17.12.2010	P. K.	Regular	S.E. Management	D	Ann. 11/2008			

APPENDIX 1-Table 3

Supreme Council for the Selection of Personnel Database on the Directly Hired Scientific Personnel

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Category- Specialty Branch	Level of education	G e r a d	Public Announce ment	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revocation of the Appointment/New Appointment
1	2008	C885, 22.9.2008	E. A.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007	Member of the Thessaloniki Bar Association, Source: Official Website of the Thessaloniki Bar Association, available at: http://www.dsth.gr/web/guest/members-phonebook?p_p_id=PA_CONTACTS&p_p_action=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=2&p_p_col_count=3&_PA_CONTACTS_struts_action=%2Fext%2Fparties%2Fcontacts%2Fsearch&p_p_action=1&_PA_CONTACTS_search=true&_PA_CONTACTS_name=%CE%91*&_PA_CONTACTS_d-49489-s=5&_PA_CONTACTS_alphabet=true&_PA_CONTACTS_d-49489-p=17&_PA_CONTACTS_d-49489-o=2# , date of access: 15.3.2011		
2	2008	C885, 22.9.2008	E.-A. V.	Regular	Business Administration	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/browse?type=author&order=DESC&rpp=20&value=%CE%92%CE%B1%CF%83%CF%83%CE%AC%CE%BB%CE%BF%CF%85%2C+%CE%95%CF%85%CE%B1%CE%B3%CE%B3%CE%B5%CE%BB%CE%AF%CE%B1&sort_by=2 , date of access: 14.11.2011	Rapporteur of Order C	1A/2007	Member of the Administrative Staff of the Supreme Council for the Selection of Personnel (G.G. C180, 6.7.2004) Decision (16341/14.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)		
3	2008	C885, 22.9.2008	K. G.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007			

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Category- Specialty Branch	Level of education	G e r a d	Public Announcement	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revocation of the Appointment/New Appointment
4	2008	C885, 22.9.2008	G. D.	Regular	Public Administration	PhD Candidate	Rapporteur of Order C	1A/2007	<p><u>Special Scientist at the Political Bureau of the Deputy Minister of Health and Welfare: 2001-2003</u> (G.G. Vol. C, no 314, 14.12.2001) Ipso iure termination of the mandate (G.G. vol. C, no 169, 21.7.2003)</p> <p><u>Special Advisor at the Political Bureau of the Minister of Development: 2004-2005</u> (G.G. vol. C, no 101, 6.4.2004)</p> <p><u>Deputy Consumer Advocate (5 year mandate): 2005-2008</u> (G.G. vol. B, no 564, 26.4.2005) Submission of resignation due to his appointment as member of the special scientific staff of the Supreme Council for the Selection of Personnel (G.G. vol. YODD, no 411, 3.10.2008)</p> <p>President and member of legislative drafting committees of various Ministries</p> <p>Member of the teaching staff under contract at the National Centre for Public Administration and Local Government Source: The Official Website of the Advocate Consumer, Annual Report for the year 2008 available at: sdhttp://www.synigoroskatanaloti.gr/docs/StK-Etisia-Ekthesi-2008.pdf, date of access: 14.3.2011</p> <p>Decision (3668/16.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php, date of access: 24.3.2011)</p>	General Secretary of Caritas Hellas (International Organisation of the Catholic Church in the Service of People and Society)	
5	2008	C885, 22.9.2008	E. Z.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007	Civil Servant at the Ministry of National Education and Religious Affairs (G.G. vol. C, no 21, 27.1.2004)		
6	2008	C885, 22.9.2008	E. Z.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007	Civil Servant at the Ministry of Foreign Affairs (G.G. vol. C, no 317, 19.12.2001)		
7	2008	C885, 22.9.2008	A. K.	Regular	Constitutional Law	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://thesis.ekt.gr/thesisBookReader/id/15365#page/11/mode/2up , date of access: 14.2.2011	Rapporteur of Order C	1A/2007	<p>Research Fellow at the Department of Law, University of Thessaloniki: 2001-2003</p> <p>Research Fellow at the Centre of International and European Economic Law (2005-2006)</p> <p>Postdoctoral researcher at the University of Thessaloniki (2005-2006)</p> <p>Source: Perizitito.gr, Books, available at: http://www.perizitito.gr/persons.php?personid=63039, date of access: 14.3.2011</p> <p>Decision (16485/31.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php, date of access: 24.3.2011)</p>	Member of the Scientific Staff of the Centre for European Constitutional Law (CECL) - Unit for Better Regulation Source: The Official Website of CECL, available at: http://www.cecl2.gr/html/ent/693/ent.4693.1.asp , date of access: 13.3.2011	Lecturer at the Department of Law of the University of Thessaloniki (G.G. vol. C, no 1293, 31.12.2010)

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name- Surname	Working Status	Category- Specialty Branch	Level of education	G r a d e	Public Announce ment	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revocation of the Appointment/New Appointment
8	2008	C885, 22.9.2008	S. K.	Regular	Public Administration	?	Rapporteur of Order C	1A/2007	Civil Servant at the Ministry of the Interior, Public Administration and Decentralisation (G.G. vol. C, no 14, 21.1.2004) Graduate of the National School of Public Administration		
9	2008	C885, 22.9.2008	A. K.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007			Revocation of the appointment after her denial to undertake her duties (G.G. vol. C, no 1043, 11.11.2008) Lawyer with a salary mandate at the Legal Service of the Greek Agricultural Insurance Organisation (ELGA) Source: Official Website of ELGA, available at: http://www.elga.gr/index.php?option=com_content&view=article&id=89:2010-05-26-10-46-09&catid=57:2010-05-26-10-42-50&Itemid=94 , date of access: 13.3.2011
10	2008	C885, 22.9.2008	A. N.	Regular	Administrative Law	?	Rapporteur of Order C	1A/2007	Civil Servant at the Ministry of Culture (G.G. vol. C, no 254, 22.9.2004)		
11	2008	C885, 22.9.2008	K. S.	Regular	Work Management or Informatics Systems	PhD,Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/12706 , date of access: 14.3.2011	Rapporteur of Order C	1A/2007	<u>Academic Activity:</u> 2004-2009: Member of the teaching staff under contract at the Department of Business Management, Higher Technological Educational Institution of Chalkida 2005-2006: Member of the teaching staff under contract at the Department of Automation, Higher Technological Educational Institution of Chalkida 2005-2007: Member of the teaching staff under contract, School of Pedagogical and Technological Education 2006-2009: Member of the teaching staff under contract at the Department of Informatics, University of Piraeus (undergraduate programme) 2008-2009: Member of the teaching staff under contract at the Department of Informatics, University of Piraeus (postgraduate programme) 2007-2010: Member of the teaching staff under contract at the Department o		

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name-Surname	Working Status	Category- Specialty Branch	Level of education	G r a d e	Public Announcement	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revocation of the Appointment/New Appointment
11			K. S.						<p>2007-2010: Member of the teaching staff under contract at the Department of Logistics Higher Technological Educational Institution of Chalkida</p> <p>2007-2009: Member of the teaching staff under contract at the Hellenic Naval Academy</p> <p>2009-2010: Member of the teaching staff under contract at the Greek Open University</p> <p>Source: CV at the Official Website of the Higher Technological Educational Institution of Chalkida, available at: http://62.103.78.248/page.asp?pageID=388, the Official Website of the Greek Open University, available at: http://www2.eap.gr/frameset.jsp?locale=el, date of access: 13.3.2011</p> <p><u>Governmental appointments (Indirect Information)</u>: Special Collaborator for the Strategic Planning of Operational Programmes of the Special Secretariat for Mental Health of the Ministry of Health and Social Solidarity (G.G. vol. YODD, 164, 24.4.2007), Special Advisor at the Ministry of Health and Social Solidarity (G.G vol. YODD, no 56, 12.2.2008)</p> <p>Alternate Member of the Project Management Group constituted by the Ministry of Internal Affairs, Public Administration and Decentralization for the implementation of the new European Programme – Framework for the solidarity and management of Migration Flows in Greece for the period 2007-2013 (Government Gazette, vol. YODD, no 164, 24.4.2007)</p> <p>Member of the Project Management Group constituted by the Ministry of Internal Affairs, Public Administration and Decentralization for the monitoring of the procedures for the implementation of the projects a. Electronic Health File, and b. Organisation and Operational Function of the Health Procurement System (G.G. vol. YODD, no 56, 12.2.2008)</p>		
12	2008	C885, 22.9.2008	G. C.	Regular	Public Administration	PhD, University of York, Source: Official Website of the Greek Open University, available at: http://www2.eap.gr/frameset.jsp?locale=el , date of access: 13.3.2011	Rapporteur of Order C	1A/2007	<p><u>Academic Activity</u>: 2010-2011: Member of the teaching staff under contract at the Greek Open University</p> <p>Spring Semester 2008: Member of the teaching staff under contract at the University of Peloponnese</p> <p><u>Appointments in Management Boards/Committees</u>: Member of the Working Group on the elaboration of an instruction manual for completing the Reports on Regulation Impact Assessment (G.G. vol. YODD, no 57, 15.2.2007)</p> <p>Member of the Management Board of the Industrial Property Organisation, three-year mandate, (G.G. vol. B, no 1783, 2.12.2004)</p>		

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name- Surname	Working Status	Category- Specialty Branch	Level of education	G r a d e	Public Announce ment	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revoc ation of the Appointment/New Appointment
13	2008	C459, 16.5.2008	A. S.	Regular	Administrative Law	?		1A/2007			Denial of the appointment. Lawyer with a salary mandate at the Legal Service of the Technical Chamber of Greece Source: Diavgeia, available at: static.diavgeia.gov.gr/doc/4A/\u039346\u03a8842-B , static.diavgeia.gov.gr/doc/4A/\u039346\u03a8842-7 , date of access: 10.4.2012
14	2008	C459, 16.5.2008	K. G.	Regular	Administrative Law	?		1A/2007			Denial of the appointment. Lawyer with a salary mandate at the Legal Service of the Technical Chamber of GreeceSource: Diavgeia, available at: static.diavgeia.gov.gr/doc/4A/\u039346\u03a8842-7 , date of access:10.4.2012

S.N.	YEAR	Vol, No of issue-Date	Initials of the Name- Surname	Working Status	Category- Specialty Branch	Level of education	G r a d e	Public Announce ment	Previous/Parallel position(s)-appointments in the public/private sector/Professional Status	NGOs	Resignation/Revoc ation of the Appointment/New Appointment
15	2008	C459, 16.5.2008	S. K.	Regular	Administrative Law	?		1A/2007			Denial of the appointment. Succeeded in the entrance examination for Judicial Officials. Table of final results published in the Governemnt Gazette, vol. C, no 238, 13.3.2008 <i>Administrative Judge</i> (Court of First Instance of Lamia), Decision of the Supreme Judicial Council of Administrative Justice, July 1, 2010, Source: Union of Administrative Judges, available at: http://www.edd.gr/news/EkZlpZpkEACkows/DKMqh.php , date of access: 10.4.2011

APPENDIX 2-Table 1

Hellenic Data Protection Authority
Database on the transferred and directly hired Administrative Personnel

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Transfer/ Retirement/R New esignation	Level of education	Working Status	G r Specialty a Branch	Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisation al Chart	Working Status	G r Specialty a Branch	In Service Transfers/New Category and/or Branch	Type of the transfer decision	Competent Public Bodies for the transfer	Transfers, Secondments from Data Privacy/New Appointments to the Public Sector
1	1999	C2, 12.1.1999	E. K.	Transfer		Regular	A U.E. - No specialty/Court Employee	Prosecution of the Hellenic Supreme Court of Civil and Penal Law	Ministry of Justice		Head of the Department of Communication	Regular	A ?		Ministerial Decision	Minister of Justice	
2	1999	C46, 6.3.1999	E. C.	Transfer		Regular	A U.E. Management	Ministry of Health and Welfare			Head of the Department of Administrative and Financial Affairs	Regular	A ?		Joint Ministerial Decision	Minister of Justice and Minister of Health and Welfare	
3	1999	C60, 16.3.1999	A. P.	Transfer		Regular	D C.E. Auxiliary Staff	Prefectural General Hospital "Amalia Fleming"	Ministry of Health and Welfare	Public Law Legal Entity	?	Regular	D C.E. Curator	S.E. Telephone Operators (G.G. vol. C, no 423, 21.11.2006	Joint Ministerial Decision	Minister of Justice and Minister of Health	
4	1999	C107, 26.5.1999	E. T.	Transfer		Regular	B S.E. Administration Accounting	Navy General Staff	Ministry of National Defence		?	Regular	B ?		Joint Ministerial Decision	Minister of Justice and Minister of National Defence	Secondment to the Greek Ombudsman (2002-2003) Source: Annual Reports of the Greek Ombudsman for the years 2002 and 2003
5	1999	C250, 14.12.1999	K. K.	New Appointment		Regular	D U.E. Communication					Regular					
6	1999	C250, 14.12.1999	A. L.	New Appointment		Regular	D U.E. Communication					Regular					

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Transfer/ New Appointment/Secondment	Retirement/Resignation	Level of education	Working Status	Grade	Category-Specialty Branch	Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisation al Chart	Working Status	Grade and Branch	In Service Transfers/New Category and/or Branch	Type of the transfer decision	Competent Public Bodies for the transfer	Transfers, Secondments from Data Privacy/New Appointments to the Public Sector
7	1999	C250, 14.12.1999	A. A.	New Appointment	Resignation 19.11.2001 (G.G. vol. C, no 308, 11.12.2001)		Regular	D	U.E. Communication					Regular					Secondment to the Political Office of the Minister of Culture (G.G.vol. C, no 205, 18.7.2000). Revocation of the secondment by the new Minister on 20.11.2000 (G.G. vol. C, no 336, 6.12.2000) and renewal of the secondment starting from 20.11.2000 (G.G. vol. C, no 76, 9.3.2001). Revocation of the secondment starting from 15.11.2001 (G.G. vol. C, no 9, 17.1.2002)
8	1999	C250, 14.12.1999	I. A.	New Appointment		PhD	Regular	D	U.E. Communication					Regular					
9	1999	C250, 14.12.1999	K. K.	New Appointment			Regular	D	U.E. Administration-Finance					Regular		Legal Controller (G.G. vol. C, no 225, 2.10.2002)			
10	1999	C250, 14.12.1999	M. G.	New Appointment			Regular	D	U.E. Informatics					Regular					
11	1999	C250, 14.12.1999	I. B.	New Appointment			Regular	D	T.E. Informatics					Regular					

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Transfer/ New Appointment/Sec ondment	Retirement/R esignation	Level of education	Working Status	G r a d e	Category- Specialty Branch	Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisation al Chart	Working Status	G r a d e	Category and Branch	In Service Transfers/New Category and/or Branch	Type of the transfer decision	Competent Public Bodies for the transfer	Transfers, Secondments from Data Privacy/New Appointments to the Public Sector
12	1999	C250, 14.12.1999	A. K.	New Appointment			Regular	D	S.E. Administration- Accounting					Regular						
13	2000	C250, 14.12.1999	M. T.	New Appointment			Regular	D	S.E. Administration- Accounting					Regular						
14	2001	C250, 14.12.1999	Y. P.	New Appointment			Regular	D	S.E. Administration- Accounting					Regular						
15	2002	C250, 14.12.1999	S. P.	New Appointment			Regular	E	C.E. Curator					Regular			S.E. Drivers, Grade D (G.G. vol. C, no 315, 11.5.2997			
16	2003	C250, 14.12.1999	S. A.	New Appointment			Regular	E	C.E. Cleansing Personnel					Regular						
17	2004	C250, 14.12.1999	S. P. -K.	New Appointment			Regular	E	C.E. Cleansing Personnel					Regular						
18	2005	C146, 15.6.2005	M. P.	New Appointment		PhD	Regular	D	U.E. Communication					Regular						
19	2005	C146, 15.6.2005	M. K.	New Appointment			Regular	D	U.E. Administration- Finance					Regular						
20	2006	C8, 16.1.2006	Y. V.	New Appointment			Regular	D	U.E. Administration- Finance					Regular						
21	2006	C8, 16.1.2006	M. Y.	New Appointment	Resignation on 18.1.2008 (G.G. vol. C, no 67, 24.1.2008)		Regular	D	U.E. Administration- Finance					Regular						

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Transfer/ New Appointment/Secondment	Retirement/Resignation	Level of education	Working Status	Grade	Category-Specialty Branch	Agency	Supervising Ministry	Legal Status of the Agency	Position in the Organisation al Chart	Working Status	Grade and Branch	In Service Transfers/New Category and/or Branch	Type of the transfer decision	Competent Public Bodies for the transfer	Transfers, Secondments from Data Privacy/New Appointments to the Public Sector
22	2006	C8, 16.1.2006	V. S.	New Appointment		PhD	Regular	D	U.E. Communication					Regular					Lecturer at the Department of Foreign Languages, Translation and Interpretation of the Ionian University (G.G. vol. C, no 463, 7.6.2010)
23	2006	C8, 16.1.2006	V. G.	New Appointment			Regular	D	U.E. Communication					Regular					
24	2006	C49, 28.2.2006	K. A.	New Appointment			Regular	D	T.E. Informatics					Regular					
25	2008	C593, 25.6.2008	K. K.	New Appointment			Regular	E	C.E. Curators					Regular					
26	2008	C593, 25.6.2008	A. M.	New Appointment			Regular	E	C.E. Curators					Regular					
27	2009	C668, 25.8.2009	F. P.	New Appointment	Resignation 25.11.2009 (G.G. vol. C, no 974, 9.12.2009)		Regular	D	S.E. Administration-Accounting					Regular					Appointment to the General Hospital of Thessaloniki "Papageorgiou" (S.E. Secretaries under a three-year private law employment contract). G.G. vol. C, no 614, 6.8.2009)
28	2010	C1286, 31.12.2010	E. P.	New Appointment			Regular	D	S.E. Administration-Accounting					Regular					
29	2009		?	Secondment					S.E.		Ministry of Justice								

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Transfer/ New Appoint ment/Sec ondment	Retirement/R esignation	Level of education	Working Status	G r a d e	Category- Specialty Branch	Agency	Supervising Ministry	Legal Status of the Agenc y	Position in the Organisation al Chart	Working Status	G r a d e	Category and Branch	In Service Transfers/New Category and/or Branch	Type of the transfer decision	Competent Public Bodies for the transfer	Transfers, Secondments from Data Privacy/New Appointments to the Public Sector
30	2009		I. P.	Secondm ent					S.E. Typists	University of the Aegean	Ministry of Nation al Education and Religious Affairs									

APPENDIX 2-Table 2

Hellenic Data Protection Authority Database on the directly hired Scientific Personnel (Auditors)

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name-Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
1	1999	C21, 8.2.1999	V. Z.	Regular	Informatics (ICT)	Head of the Controllers' Department /U.E. Auditor	A	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/4525 , date of access: 20.3.2011							Since 2000 adjunct Professor at the Department of Informatics (ICT) of the Greek Open University, Source: Official Website of the Greek Open University, available at: http://www2.eap.gr/frameset.jsp?locale=el and http://www.eap.gr/ak_pros/plh22.htm , date of access: 13.2.2011	

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1			V. Z.												Decision (250 Φ233.02/14.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
2	1999	C21, 8.2.1999	P. D.	Regular	Legal	U.E. Auditor	B	PhD	Resignation on 14.7.2006 (G.G. vol. C, 262, 14.9.2006)						Since 2006 officer within Europol Data Protection Unit, Source: European Parliament, Public Hearing on the future of Europol http://www.europa.europa.eu/hearings/20070410/libe/minutes_en.pdf , date of access: 9.2.2011	

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3	1999	C21, 8.2.1999	K. M.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/17694 , date of access: 20.3.2011								
4	1999	C21, 8.2.1999	F. M.	Regular	Legal	U.E. Auditor	B	Postgraduate, Degree, MSc, (DEA): Source: Journal: Implementations of Public Law, http://www.efdimdik.gr/arxeio/1s_2005.html , date of access: 20.3.2011			Seconded National Expert at the European Commission (2007-), Data Protection Unit, DG Justice, Freedom and Security, Source: To Vima Ideon, Insert of the Newspaper To Vima, Issue 1.2.2008, available at: http://www.vimaideon.gr/Article.aspx?d=20080201&nid=7342424&sn=KYPIO TEYXOS&spid=1478 , date of access: 14.6.2010					NGOs - Civil Society Vice-President of the Executive Board of the European Association for the Defence of Human Rights (AEDH) for the period 2008-2010, Official Website of the AEDH, available at: http://www.aedh.eu/-Executive-committee-.html , date of access: 27.2.2011

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4			F. M.													Member of the Hellenic League for Human Rights, Source: Official Website of the Hellenic League for Human Rights, available at: www.hlhr.gr/conference/prosklisi-8-12-05.doc , date of access: 7.6.2010
5	1999	C21, 8.2.1999	E. S.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree								Decision (250 Φ233.02/14.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
6	1999	C21, 8.2.1999	K. L.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree								

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7	1999	C21, 8.2.1999	K. K.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree, MSc, Source: The Official Website of the Ministry of the Interior, Administrative Reform, available at: http://www.administrativereform.gr/index.php?option=com_content&view=category&layout=blog&id=6&Itemid=11&lang=el , date of access: 20.3.2011			On secondment as National Expert on data protection and informatics at the Council of Europe (Brussels) for two years Seconded at the Ministry of the Interior, Decentralisation, and Electronic Governance Source: The Official Website of the Ministry of the Interior, Decentralisation and Electronic Governance, Administrative Reform, available at: http://www.administrativereform.gr/index.php?option=com_content&view=category&layout=blog&id=6&Itemid=11&lang=el , date of access: 20.3.2011					
8	1999	C21, 8.2.1999	Y. L.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree	Resignation on 30.1.2001 (G.G. vol. C, 40, 14.2.2001)							

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9	1999	C21, 8.2.1999	K. B.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: CV at Wiley Editions, available at: http://onlinelibrary.wiley.com/doi/10.1002/9780470099742.about/pdf , date of access: 11.2.2011		YES			Since 1999 Head of the Access Network Lab at the Hellenic Telecommunications Organisation (Greek PTT) R&D, Between 1997-2002 adjunct Professor at various universities in Greece, Source: CV at Wiley Editions, available at: http://onlinelibrary.wiley.com/doi/10.1002/9780470099742.about/pdf , date of access: 11.2.2011			
10	2002	C225, 2.10.2002	K. K.	Regular	Legal	U.E. Auditor	D	Postgraduate Degree				U.E. Management-Economics at the Department of Management-Economics of the Hellenic Data Protection Authority				

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11	2003	C291, 19.12.2003	Z. K.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,43469&_dad=portal&_schema=PORTAL , date of access: 20.3.2011							Member of the Special Legislative Drafting Committee, representing the Hellenic Data Protection Authority on the study and elaboration for the transposition in national legislation of the Directive 2006/24/EC of the European Parliament and the Council of March 15, 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (G.G. vol. YODD, no 42, 4.2.2008)	

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11			Z. K.												Alternate Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010)	
12	2003	C291, 19.12.2003	I.-E. T.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree								

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
13	2003	C291, 19.12.2003	A. B.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/17017 , date of access: 20.3.2011							Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010)	

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14	2003	C291, 19.12.2003	P. N.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/11268 , date of access: 20.3.2011	Resignation on 26.9.2007 (G.G. vol. C, 777, 10.10.2007)				Lecturer (Department of Mathematics) at the University of the Aegean (G.G. vol. C, no 642, 17.8.2007)			
15	2005	C89, 5.4.2005	K. M.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree								
16	2006	C8, 16.1.2006	E. M.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree, LLM	Resignation on 22.7.2008 (G.G. vol. C, 703, 30.7.2008)				Head of the Office for International and European Union Issues at the General Secretariat of the Government by decision of the Prime Minister Georgios Papandreou, (G.G. vol. YODD, no 201, 7.6.2010)	Member of the Teaching Staff at the Law Department of the American University in Cairo as the Richard A. Bartlett Yale Law School Fellow in Law (2008-2010)		

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16			E. M.											Richard A. Bartlett Yale Law School Fellow in Law, Sources: Yale Law School, http://www.law.yale.edu/faculty/EMaritsoukou.htm , Official Website of the American University in Cairo, available at : http://www1.aucegypt.edu/ncd/campusnews/ , date of access: 11.2.2011		
17	2006	C8, 16.1.2006	E. L.	Regular	?	U.E. Auditor	B	PhD, Source: Official Website of the Greek Ombudsman, Annual Report for the year 2006, available at: http://www.synigos.gr/pdfs/annual_06_p_kprosopikou_06.pdf , date of access: 20.3.2011	Resignation on 14.7.2006 (G.G. vol. C, 272, 14.9.2006)				Member of the Special Scientific Staff of the Greek Ombudsman. Source: Annual Report of the Greek Ombudsman for the year 2006 http://www.synigos.gr/pdfs/annual_06_p_kprosopikou_06.pdf , date of access: 11.2.2011			

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18	2006	C8, 16.1.2006	Z. T.	Regular	Legal	U.E. Auditor	B	PhD, Source: Noerr Group, available at: http://www.noerr.com/en/pdfprint/?id=1621&lang=2 , date of access: 11.2.2011	Resignation on 12.3.2007 (G.G. vol. C, 207, 28.3.2007)		Seconded Trainee at the European Data Protection Supervisor (Oct. 2006-Feb. 2007), Annual Report of the EDPS for the year 2005, available at: http://www.edps.europa.eu/EDPSW/EB/edps/site/mySite/AR , date of access: 11.2.2011			Since 2008 Lawyer at the Noerr* European Law Firm * Noerr develops comprehensive legal, tax, finance and management solutions Source: Noerr Group, available at: http://www.noerr.com/en/pdfprint/?id=1621&lang=2 , date of access: 11.2.2011		
19	2006	C8, 16.1.2006	D. Z.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,43469&_dad=portal&_schema=PORTAL , date of access: 20.3.2011								

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20	2006	C8, 16.1.2006	E. C.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree							Member of the Special Legislative Drafting Committee, representing the Hellenic Data Protection Authority, on the study and elaboration for the transposition in national legislation of the Directive 2006/24/EC of the European Parliament and the Council of March 15. 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (G.G. vol. YODD, no 42, 4.2.2008)	

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21	2006	C8, 16.1.2006	K. B.	Regular	Legal	U.E. Auditor	B	PhD, Source: Eleftheroudakis Books, available at: http://www.books.gr/ViewAuthor.aspx?AuthorId=1963552 , date of access: 11.2.2011	Resignation on 23.2.2006 (G.G. vol. C, 49, 28.2.2006)				For many years he has worked as adjunct Professor (under contract pursuant to the Presidential Decree 407/80) at the Department of Social Administration at the University of Thrace), Source: http://www.socadm.duth.gr/index.php?rm=1&pm=80&sm=96 , date of access: 11.2.2011 Member of the teaching staff under contract at the Greek Police Academy,			Parliamentary Candidate in the National Elections of 2004, 2007 with the party of New Democracy. He demissioned from his candidacy in the National Elections of 2010. Source: Newspaper Ethnos, available at: http://www.ethnos.gr/general2.asp?catid=11378&subid=20110&pubid=6000838 , date of access: 11.2.2011, Official Website of the party of New Democracy
													Source: Eleftheroudakis Books, available at: http://www.books.gr/ViewAuthor.aspx?AuthorId=1963552 , date of access: 11.2.2011			, available at: http://www.nd.gr/index.php?option=com_content&task=view&id=32636&Itemid=99999999 , date of access: 11.2.2011

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21			K. B.										Member of the Management Board - representing the Ministry of National Education and Religious Affairs- of the non-profit Public Entity under Private Law, Centre for the Re-integration of ex-prisoners, Three-year mandate, G.G. vol. YODD, no 165, 15.4.2009)			
22	2006	C8, 16.1.2006	V. V.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree		YES			Member of the Management Board of the Institute for Defense Analyses, G.G. vol. B, no 803, 3.7.2006, vol. YODD, no 263, 28.6.2007) Member of the Scientific Council of the Institute for Defence Analyses, (G.G. vol. YODD, no 333, 30.7.2008)			

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23	2006	C8, 16.1.2006	M. A.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree								Candidate at the elections of the Thessaloniki Bar Association with the party "Avant Garde Lawyers" in 2004. Source: The Official Website of the Avant Garde Lawyers, available at: http://www.dikigorikiprotopia.gr/ipopsifii.html , date of access: 14.6.2010

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24	2006	C49, 28.2.2006	K. R.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: E-security Forum, Conference Speakers CVs;\' http://www.esecurityforum.org/Portals/5/presentations/conference_cv.html , date of access: 11.2.2011		YES		Adjunct Professor at the Industrial Informatics (ICT) and Information Management Department of the Technological Educational Institution of Kavala, at the Department of Electrical and Computer Engineering at the Democritus University of Thrace, at the Department of Informatics (ICT) with Appliances in Biomedicine at the University of Central Greece,	Member of the Special Scientific Staff at the Informatics (ICT) Development Agency of the General Secretariat of Public Administration and Electronic Governance at the Ministry of Interior (G.G. vol.C, no 346, 17.10.2006) Source: E security Forum, Conference Speakers CVs;\' http://www.esecurityforum.org/Portals/5/presentations/conference_cv.html , date of access: 11.2.2011 Source: E-security Forum, Conference Speakers CVs, available at: http://www.esecurityforum.org/Portals/5/presentations/conference_cv.html , date of access: 11.2.2011			

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25	2006	C49, 28.2.2006	N. B.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: Tutorial on Applied Computing Conference (ACC '09), available at: http://www.itr.gr/events.cfm?id=11&lang=gr , date of access: 11.2.2011		YES		Sources: Official Website of Democritos, http://www.itr.gr/events.cfm?id=11&lang=gr http://www.iit.demokritos.gr/docs/reports/annual2008.pdf , date of access: 11.2.2011.	Associate Professor at the Greek Military Academy (G.G. vol. C, no 1210, 23.12.2010) Scientific Collaborator (under contract) at the Higher Technological Institute of Chalkida, Researcher under work contract at the Net Media Lab at the National Centre for Scientific Research Democritos, Sources: Official Website of Democritos, available at: http://imm.demokritos.gr/staff.asp , Official Website of the Higher Technological Institution of Chalkida, available at: http://eclass.teihal.gr/modules/auth/opencourses.php?fc=8 , date of access: 11.2.2011			
26	2006	C49, 28.2.2006	I. L.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree								

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27	2006	C49, 28.2.2006	Y. R.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: Official Website of the National Documentation Centre, National Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/12365 , date of access: 20.3.2011								
28	2006	C49, 28.2.2006	A. A.	Regular	?	U.E. Auditor	B	Postgraduate Degree	Resignation on 15.10.2007 (G.G. vol. C, 842, 24.10.2007)							
29	2006	C49, 28.2.2006	A. P.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree		YES			Member of the Special Scientific Staff at the Ministry of Economy and Finance (subject area: Computer Networks) G.G. vol. C, no 102, 6.4.2006)			
30	2006	C173, 5.7.2006	Y. P.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree								
31	2006	C173, 5.7.2006	V. L.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree	Resignation on 30.11.2006 (G.G. vol. C, 485, 14.12.2006)				Succeeded in the Notaries 2006 exam for the County Court of Kavala and was appointed Notary (G.G. vol. C, no 107, 22.2.2007)			

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
32	2006	C173, 5.7.2006	F. K.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree							Alternate Member of the Special Legislative Drafting Committee, representing the Hellenic Data Protection Authority, on the study and elaboration for the transposition in national legislation of the Directive 2006/24/EC of the European Parliament and the Council of March 15, 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (G.G. vol. YODD, no 42, 4.2.2008)	

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
33	2006	C387, 3.11.2006	E. B.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree	Resignation on 2.8.2007 (G.G. vol. C, 596, 16.8.2007)					PhD Candidate at the Centre for Studies and Research in Public Economic Law at Sorbonne-Paris Source: Official Website of the Centre for Studies and Research in Public Economic Law, available at: http://www.univ-paris1.fr/centres-de-recherche/cerdpe-centre-detudes-et-de-recherche-en-droit-public-economique/les-doctorants/ , date of access: 11.2.2011		
34	2008	C419, 13.5.2008	E. M.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,43469&_dad=portal&_schema=PORTAL , date of access: 20.3.2011								

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
35	2008	C419, 13.5.2008	C. L.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,43469&_dad=portal&_schema=PORTAL , date of access: 20.3.2012								
36	2008	C419, 13.5.2008	T. T.	Regular	Legal	U.E. Auditor	B	Postgraduate Degree			Seconded Trainee at the European Data Protection Supervisor Oct. 2005-Feb. 2006), Annual Report of EDPS for the year 2005, available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/AnnualReport/2006/AR_2006_EN.pdf , date of access: 21.3.2011					

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
37	2008	C419, 13.5.2008	Anargyros Chrysanthou	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree, MSc, The Official Website of the University of Thrace, available at: http://pericles.ee.duth.gr/new_site/el/leptomereies.html , date of access: 21.3.2011								
38	2008	C1134, 17.12.2008	L. R.	Regular	Informatics (ICT)	U.E. Auditor	B	Postgraduate Degree								
39	2009	C668, 25.8.2009	E. D-L.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,23184&_dad=portal&_schema=PORTAL , date of access: 21.3.2011							Alternate Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the PNR (Passenger Name Record) Agreements of the European Union and the	

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
39			E. D.-L.												Governments of U.S.A., Canada and Australia on the processing and transfer of passengers' data (Government Gazette, vol. YODD', no 165, 7.5.2010)	
40	2009	C668, 25.8.2009	K. K.	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,23184&_dad=portal&_schema=PORTAL , date of access: 21.3.2011								
41	2009	C668, 25.8.2009	Fereniki Panagopoulou	Regular	Legal	U.E. Auditor	B	PhD, Source: The Official Website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/portal/page?_pageid=33,23184&_dad=portal&_schema=PORTAL , date of access: 21.3.2011								

S.N.	YEAR	Government Gazette, Vol, No of issue-Date / Annual Report	Initials of the Name- Surname	Working Status	Legal / Informatics (ICT) Auditors	Category and Branch	Grade	Level of Education	Resignation	Denial of the appointment	Transfers, Secondments from the Data Protection Authority to the public sector or services of the European Union or other European Agencies	Previous positions in the public sector	New Appointments/Positions in the Public Sector	Positions Abroad in the Public or Private Sector, Organisations after resignation or denial of appointment	Parallel Occupation (Adjunct Professors, Ex Officio Participation in Legislative Committees etc)	Party affiliation/Trade Unionism/Civil Society
42	2009	C668, 25.8.2009	K. L.	Regular	Informatics (ICT)	U.E. Auditor	B	PhD, Source: The Official Website of Athens University, available at: http://cgi.di.uoa.gr/~klimn/CV.html , date of access: 21.3.2011				<p><i>Academic Activity:</i> <u>Sep.2005-Sep. 2007 & Sep. 2008-June 2009:</u> Adjunct Professor at the Dptm of Informatics and Computer Technology, Technological Educational Institution of Lamia, <u>Sep. 2008-June 2009, Academic Year: 2010-2011:</u>Dptm of Informatics at the Technological Educational Foundation of Athens, Source: The Official Website of Athens University, CV, available at: http://cgi.di.uoa.gr/~klimn/CV.html, date of access:21.3.2011</p> <p>and the Official Website of the Dptm of Informatics of the Technological Educational Foundation of Athens, available at: http://www.cs.teiath.gr/images/stories/sunergates.pdf, date of access: 21.3.2011</p>				

APPENDIX 3-Table 1

The Greek Ombudsman Database on the seconded and transferred Administrative Personnel

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	Category and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
1	1998	NPDD158, 3.7.2003	K. V.	YES	YES	S.E.		Regular	A	S.E. Typists	National Centre for Social Research	Ministry of Development	Public Law Legal Entity	Vacant Chart Position	Regular	A	S.E. Typists		Decision of the Vice-President of the Management Board of the National Centre of Social Research			Secondment to the Inspector General of Public Administration Source: Diavgeia, static.diavgeia.gov.gr/doc/4IH5OPP6-Y , date of access: 17.4.2011
2	1998		S. K.	YES		C.E.	2006			C.E. Usher	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation										
3	1998		E. K.	YES		S.E.	2004			S.E. Driver	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation										
4	1998		V. M.	YES		S.E./Deree College Graduate	1999				Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation										
5	1998		Y. B.	YES		S.E.	2003			S.E. Driver	Greek Post S.A.	Ministry of Transport and Communications	Legal Entity of Private Law (Anonymous Company)									

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
6	1998	NPDD192, 11.8.2003	V. N.	YES	YES	T.E.		Regular	C	T.E. Administration-Accounting	Pension Fund and Health Insurance of doctors, dentists, pharmacists and veterinarians	Ministry of Labour and Social Security	Public Law Legal Entity	Vacant Chart Position	Regular	C	T.E. Administration-Accounting		Decision of the President of the Management Board of Pension Fund and Health Insurance of doctors, dentists, pharmacists and veterinarians		
7	1998		P. P.	YES		T.E.	1999				Fund of Merchants and Craftsmen	Ministry of Labour and Social Security	Public Law Legal Entity								
8	1998		A. T.	YES		Post-graduate degree	Until now				General Hospital of Athens "Laiko"	Ministry of Health	Public Law Legal Entity				Unofficial Transfer: Department of Health and Social Welfare				
9	1999		E. K.	YES		U.E.	2000				Ministry of Foreign Affairs	Ministry of Foreign Affairs									
10	1999		V. D.	YES		C.E.	Pension : 2006			Auxiliary Staff	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation									
11	1999		E. T.	YES		U.E.	2003				Prefecture of Piraeus	Ministry of the Interior, Public Administration and Decentralisation	Local Authority of Second Degree								

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	Category and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
12	2000	C140, 24.6.2003	E. K.	YES	YES	U.E.		Regular	A	Administration Organisation	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation		Vacant Chart Position	Regular	Director	Administration and Organisation		Ministerial Decision	Minister of the Interior, Public Administration and Decentralisation	Member of the Special Scientific Staff of the Greek Ombudsman: 1998-1999 (Department of State-Citizens Relations) Annual Reports of the Greek Ombudsman for the Years 1998-1999 On secondment Director of the Secretariat: 2000-2003	
13	2000	NPDD158, 3.7.2003	M. A.-K.	YES	YES	S.E./Deree College Graduate		Regular	B	Administration-Accounting	Children's Hospital "P. and A. Kyriakou"	Ministry of Health	Public Law Legal Entity		Regular	B	S.E. Administration-Accounting	Unofficial transfer: Department of Quality of Life	Decision of the Governor of the Children's Hospital "P. and A. Kyriakou"		Source: Makrydimitris A., Michalopoulos, N. (ed.) Reports of Experts on Public Administration, Papazisis Editions, Athens 2000)	Secondment to the Political Office of the Minister of Economics starting from 28.12.2009, G.G. vol. YODD, no 3, 12.1.2010
14	2000	C140, 24.6.2003	D. A.	YES	YES	S.E.		Regular	A	Administration-Accounting	Prefectural Self-Administration of Athens-Piraeus Prefectural Department of Piraeus	Ministry of the Interior, Public Administration and Decentralisation	Public Law Legal Entity	Vacant Chart Position	Regular	A	S.E. Administration-Accounting		Ministerial Decision	Minister of the Interior, Public Administration and Decentralisation		

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
15	2000	NPDD158, 3.7.2003	S. A.	YES	YES	S.E		Regular	B	Administration-Accounting	National Institution for the Rehabilitation of Handicapped	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	B	S.E. Administration-Accounting		Decision of the President of the Management Board of the National Institution for the Rehabilitation of Handicapped		
16	2000	NPDD158, 3.7.2003	T. E.	YES	YES	U.E.		Regular	A	Administration-Finance	Prefectural General Hospital of Melissia "Amalia Fleming"	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	A	U.E. Administration-Finance		Decision of the President-General Director of the Second Regional Health Council of Attica		
17	2000	NPDD177, 24.7.2003 Retirement from service (pension?) G.G. vol. C, no 216, 18.3.2010	M. K.	YES	YES	U.E.		Regular	A	Administration-Finance	Foundation for Social Security	Ministry of Labour and Social Security	Public Law Legal Entity	Vacant Chart Position	Regular	A	U.E. Administration-Finance		Decision of the Governor of the Foundation for Social Security		
18	2000	C650, 17.8.2007	L. K.	YES	YES	U.E.		Regular	A	Administration-Finance	Headquarters of the Greek Police	Ministry of Public Order			Personal position beyond the Chart Law 3345/2005	A	U.E. Administration-Finance	Ministerial Decision	Minister of Public Order		

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
19	2000	NPDD158, 3.7.2003	Y. K.	YES	YES	S.E.		Regular	B	Administration-Accounting	General Hospital of Athens "Laiko"	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	B	S.E. Administration-Accounting		Decision of the President-General Director of the First Regional Health Council of Attica		
20	2000	C157, 3.7.2003	K. K. -T.	YES	YES	U.E.		Regular	A	Press	Ministry of Press and Mass Media	Ministry of Press and Mass Media		Vacant Chart Position	Regular	A	U.E. Communication		Ministerial Decision	Minister of Press and Mass Media	
21	2000	NPDD177, 24.7.2003	E. L.	YES	YES	U.E.		Regular	C	S.E. Administration-Accounting	Foundation for Social Security (Regional Branch)	Ministry of Labour and Social Security	Public Law Legal Entity	Vacant Chart Position	Regular	C	S.E. Administration-Accounting	U.E. Administration-Finance vol. C, no 26, 3.2.2006	G.G. vol. C, no 26, 3.2.2006	Decision of the Governor of the Foundation for Social Security	
22	2000		A. D.	YES		U.E.	2002	Regular/National School of Public Administration			Ministry of Development	Ministry of Development									
23	2000	NPDD171, 17.7.2003	D. P.	YES	YES	S.E.		Regular	B	S.E. Administration-Accounting	Equity Aviation Fund	Ministry of National Defence	Public Law Legal Entity	Vacant Chart Position	Regular	B	S.E. Administration-Accounting		Decision of the President of the Management Board of the Equity Aviation Fund		

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
24	2000	NPDD177, 24.7.2003	P. S.	YES	YES	S.E.		Regular	B	S.E. Computer Operators	Supplementary Insurance Fund of the Employees of Pharmaceutical Operations	Ministry of Labour and Social Security	Public Law Legal Entity	Vacant Chart Position	Regular	B	S.E. Administration-Accounting	S.E. Informatics G.G. vol. C, no 1054, 13.11.2008	Decision of the President of the Management Board of the Supplementary Insurance Fund of the Employees of Pharmaceutical Operations		
25	2000		M. S.	YES		U.E.	2001				Ministry of National Economy	Ministry of National Economy									
26	2000		F. T.	YES		S.E.	2001				Ministry of Health and Welfare	Ministry of Health	Public Law Legal Entity								
27	2000		A. F.	YES		T.E.	Until now			T.E. Administration-Accounting	Agricultural Security OrganisationSub mission of resignation, available at: static.diavgeia.gov.gr/doc/4IHM4691ΩΔ-P, date of access: 17.4.2011	Ministry of Labour and Social Security	Public Law Legal Entity				Unofficial Transfer: Secretary of the Deputy Ombudman at the Department of Citizen-State Relations				
28	2000	C157, 3.7.2003	T. F.	YES	YES	U.E.		Regular	A	U.E. Informatics	Ministry of National Defence	Ministry of National Defence		Vacant Chart Position	Regular	A	U.E. Informatics		Ministerial Decision	Minister of National Defence	
29	2000		I. C.	YES		T.E.	2003				National Statistical Service of Greece	Ministry of National Economy	Public Law Legal Entity								

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
30	2001		Y. A.	YES			2002				Municipality of Egaleo	Ministry of the Interior, Public Administration and Decentralisation	Local Authority of First Degree								
31	2001		M-A. K.	YES		S.E.	Until now				Agricultural Security Organisation	Ministry of Labour and Social Security	Public Law Legal Entity								
32	2001	C240, 10.10.2003	P. B.	YES	YES	S.E.		Regular	A	S.E. Administration-Accounting	Headquarters of the Greek Police	Ministry of Public Order		Vacant Chart Position	Regular	A	S.E. Administration-Accounting	Ministerial Decision	Minister of Public Order		
33	2001	NPDD158, 3.7.2003	D. P.	YES	YES	S.E.		Regular	C	C.E. Watchman Nightwatchman	Prefectural General Hospital of Melissia "Amalia Fleming"	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	C	C.E. Auxiliary Staff	S.E. Administration-Accounting (G.G. Vol. C, no 125, 8.5.2006)	Decision of the President-General Director of the Second Regional Health Council of Attica		
34	2002		A. N.	YES		PhD	2003				Foundation of Social Security	Ministry of Labour and Social Security	Public Law Legal Entity								
35	2002		A. T.	YES		S.E.	Until now				Ministry of Public Order	Ministry of Public Order					Unofficial Transfer: Secretary of the Deputy Ombudsman of the Department of Human Rights				
36	2002		E. T.	YES		S.E.	2004				Hellenic Data Protection Authority	Ministry of Justice	Independent Authority				Unofficial Transfer: Children's Rights				

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
37	2003	C303, 9.4.2008	G. K.	YES	YES	T.E.		Regular	A	Technicians	Prefectural Self-Administration of Athens-Piraeus	Ministry of the Interior, Public Administration and Decentralisation	Local Authority of Second Degree	Personal position beyond the Chart Law 3345/2005	Regular	A	T.E. Administration-Accounting	Ministerial Decision	Minister of the Interior, Public Administration and Decentralisation		
38	2003		E. P.	YES		Post-graduate degree	Until now			Archaeologist	Credit Management Fund for the Implementation of Archaeological Projects	Ministry of Culture	Private Law Legal Entity				Unofficial Transfer: Secretary of the Deputy Ombudsman of the Department of Children's Rights				Secondment to the Political Bureau of the Deputy Minister of Health and Welfare, G.G. vol. C, no 171, 14.6.2000 Revocation of the secondment: 1.8.2002, G.G. 241, 23.10.2002
39	2003		N. A.	YES		U.E. D.E.A. Degree	2007			French Language	Secondary Education Teacher	Ministry of National Education and Religious Affairs					Unofficial Transfer: Department of Health and Social Welfare				
40	2003		D. K.	YES		S.E.	Until now			Driver	Electric Buses of Athens-Piraeus	Ministry of Transport and Communications	Anonymous Public Company								
41	2004		I. V.	YES		S.E.	Until now			Driver	Ministry of the Interior, Public Administration and Decentralisation	Ministry of the Interior, Public Administration and Decentralisation									

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
42	2004		S. K.	YES		U.E.	Until now			Engineer	Region of Attica	Ministry of the Interior, Public Administration and Decentralisation									
43	2005		G. C.	YES		U.E.	Until now			Librarian	Athens University	Ministry of National Education and Religious Affairs									
44	2009 C66, 29.1.2009	V. T.		YES	C.E.		Regular	D	Auxiliary Sanitary Staff	General Hospital "Koraileneio-Benakeio	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	D	C.E. Auxiliary Staff		Joint Ministerial Decision	Minister of the Interior and Minister of Health and Social Solidarity		
45	2009 C66, 29.1.2009	V. Z.		YES	T.E.		Regular	A	Management of Health Units	General Hospital of Athens "Laiko"	Ministry of Health	Public Law Legal Entity	Vacant Chart Position	Regular	A	T.E. Administration-Accounting		Joint Ministerial Decision	Minister of the Interior and Minister of Health and Social Solidarity		
46	2009 C151, 3.3.2009	V. K.		YES	C.E.		Term of Office (Private Law of Indefinite Time)	No Grade	Usher	Anonymous Company for the Exploitation and Management of Greek Highways	Ministry of Environment, Planning and Public Works	Public Anonymous Company	Personal position beyond the Organisational Chart	Term of Office (Private Law of Indefinite Time)	No Grade	C.E. Usher		Joint Ministerial Decision	Minister of the Interior and Minister of Environment, Planning and Public Works		
47	2009 C164, 4.3.2009	M. L.		YES	U.E.		Regular?	B	Administration-Finance	Anonymous Company for the Exploitation and Management of Greek Highways	Ministry of Environment, Planning and Public Works	Public Anonymous Company	Personal position beyond the Organisational Chart	Regular	B	U.E. Administration-Finance		Joint Ministerial Decision	Minister of the Interior and Minister of Environment, Planning and Public Works		

S.N.	YEAR	Government Gazette Vol, No of issue-Date	Initials of the Name-Surname	Secondment	Conversion to transfer/Direct Transfer	Level of Education	Revocation of secondment	Working Status	Grade	Category-Specialty Branch	Service	Supervising Ministry	Legal Status of the Agency	Position of the Organisational Chart	Working Status	Grade and Branch	In Service Transfers (Official/Unofficial) /New Category	Type of decision for the transfer	Competent Public Bodies for the transfer	Previous positions in the Public Sector/Parallel Occupation	Secondments to the Public Sector
48	2010	C1241, 31.12.2010	T. P.		YES	T.E.		Regular	C	Administration-Accounting	Health Procurement Committee	Ministry of Health	Autonomous public service		Regular	C	T.E. Administration-Accounting		Joint Ministerial Decision	Minister of the Interior, Decentralisation and Electronic Governance and Minister of Health and Social Solidarity	
49	2006		E. V.		YES	S.E.					Athens Water Supply and Sewerage Company (EYDAP S.A.)										

APPENDIX 3-Table 2

The Greek Ombudsman
Database on the Directly Hired Administrative Personnel

S.N.	YEAR	Government Gazette: Vol, No of issue-Date	Initials of the Name-Surname	Level of Education	Working Status	Grade	Category- Specialty Branch	Announce ment	New Appointment/ Transfer	In Service Transfer	Previous position in the public sector
1	2007	C594, 16.8.2007	E. V.	Postgraduate degree	Regular	D	U.E. Administration- Finance				
2	2007	C594, 16.8.2007	S. K.	Postgraduate degree	Regular	D	U.E. Administration- Finance				
3	2007	C594, 16.8.2007	P. P.	Postgraduate degree	Regular	D	U.E. Communication				
4	2007	C594, 16.8.2007	A. T.	Postgraduate degree	Regular	D	U.E. Communication				
5	2007	C594, 16.8.2007	R. A.	Postgraduate degree	Regular	D	T.E. Informatics				Commercial and Industrial Chamber of Athens-End of working relationship G.G. vol.. C, no 718, 14.9.2007
6	2007	C594, 16.8.2007	A. Z.	Postgraduate degree	Regular	D	T.E. Informatics				
7	2007	C594, 16.8.2007	D. V.	Postgraduate degree	Regular	D	U.E. Informatics				
8	2007	C594, 16.8.2007	I. V.	Postgraduate degree	Regular	D	U.E. Informatics				Civil Servants' Sickness Insurance Fund (OPAD) -End of working relationship G.G. vol.. C, no 714, 14.9.2007
9	2009	C296, 28.4.2009	A. A.	Compulsory Education	Regular	D	C.E. Auxiliary Staff				
10	2009	C475, 22.6.2009	M. K.	Postgraduate degree	Regular	D	U.E. Administration- Finance				

APPENDIX 3-Table 3

The Greek Ombudsman

Database on the seconded or directly hired secretaries of the Ombudsman and Deputy Ombudsmen

S.N.	YEAR	Annual Report	Initials of the Name-Surname	Level of Education	Working Status	Secretariat of the Ombudsman and Deputy Ombudsmen	Retirement	In Service Transfer	Previous positions	New appointments/posts
1	1998	1998	M. C.	PhD (1999)	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Human Rights)	2000		Member of the Teaching Personnel under contract at the National School of Public Administration (1989-1992) Source: Official Website of the University of Cyprus, available at: http://www.test.ucy.ac.cy/dir/188_2010%20avril%20CV%20May%20FR%20%20WEB%20Copy.pdf , date of access: 8.2.2011	Member of the Teaching Personnel of the University of Cyprus. (Sep. 2000-) Currently: Associate Professor Source: Official Website of the University of Cyprus, available at: http://www.test.ucy.ac.cy/dir/188_2010%20avril%20CV%20May%20FR%20%20WEB%20Copy.pdf , date of access: 8.2.2011
2	1998	1998	E. G.	Secondary Education	Seconded from the Ministry of Finance	Secretary of the Deputy Ombudsman (Department of Health and Social Welfare)	2000			
3	1998	1998	M. A.	University Degree/Post-Graduate Seminaire	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Quality of Life)	2003			Member of the Auxiliary Scientific Personnel of the Greek Ombudsman since 2003. Since 2006 member of the Special Scientific Personnel Source: Annual Reports of the Greek Ombudsman (2003-2007)
4	1998	1998	M. T.	Secondary Education	Seconded from the Ministry of the Interior, Public Administration and Decentralisation	Secretary of the Deputy Ombudsman (Department of State-Citizens Relations)	2003			
5	1998	1998	I. P.	University Degree	Private law employment contract	Secretary of the Ombudsman	1999			
6	1998	1998	D. P.	Secondary Education	Private law employment contract	Secretary of the Ombudsman	2000			
7	1999	1999	E. G.	Secondary Education/Post-Graduate Degree/Deree College	Private law employment contract	Secretary of the Ombudsman	2003			
8	1999	1999	V. P.	Secondary Education	Seconded from the National Centre for Social Research	Secretary of the Ombudsman	2003			
9	2000	2000	E. M.	Secondary Education	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Human Rights)		Secretary of the Ombudsman (2003)		

S.N.	YEAR	Annual Report	Initials of the Name-Surname	Level of Education	Working Status	Secretariat of the Ombudsman and Deputy Ombudsmen	Retirement	In Service Transfer	Previous positions	New appointments/po sts
10	2000	2000	E. K.	Postgraduate Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Health and Social Welfare)	2003			
11	2000	2000	M. K.	University Degree	Seconded from the Public Debt Management Organisation (Ministry of Finance)	Secretary of the Ombudsman	2003			
12	2002	2002	E. A.	Secondary Education/Deree College	Private law employment contract	Secretary of the Ombudsman	2003			
13	2003	2003	C. V.	Technological Education Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Human Rights)	? 2010			
14	2003	2003	E. K.	University Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Health and Social Welfare)	? 2008			
15	2003	2003	V. T.	University Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Quality of Life)				
16	2003	2003	M. N.	Postgraduate Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of State-Citizens Relations)				
17	2003	2003	E. P.	Postgraduate Degree	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Children's Rights)				
18	2003	2003	D. K.	Secondary Education	Private law employment contract	Secretary of the Ombudsman				
19	2003	2003	M.-A. P.	University Degree	Private law employment contract	Secretary of the Ombudsman				
20			A. T.	University Degree, Postgraduate Student at the Department of Political Science and Public Administration, Athens University (Academic Year 2009-2010), Source: Official Website of the University of Athens, available at: http://kdp.pspa.uo.a.gr/Anakoinwsi%20SYMBOYLOI%20SPOYDWN.doc date of access: 8.2.2011	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Gender Equality)				

S.N.	YEAR	Annual Report	Initials of the Name-Surname	Level of Education	Working Status	Secretariat of the Ombudsman and Deputy Ombudsmen	Retirement	In Service Transfer	Previous positions	New appointments/posts
21			D. Y.	University Degree, Postgraduate Student Source: Official Website of the Greek National Centre for Social Research, Campaigning Support Against the closure of the Greek National Centre for Social Research http://www2.ekke.gr/~ekkegr/signatures.php?s=2&page=70 , date of access: 18.4.2011	Private law employment contract	Secretary of the Deputy Ombudsman (Department of Human Rights)				
22			E. G.	?	Seconded from the Ministry of the Interior, Public Administration and Decentralisation	Secretary of the Deputy Ombudsman (Department of Quality of Life)	? Secretariat			
23			E. A.	?	?	Secretary of the Deputy Ombudsman (Department of Quality of Life)	? Secretariat			
24			E. K.	?	?	Secretary of the Deputy Ombudsman (Department of Quality of Life)				

APPENDIX 3-Table 4

The Greek Ombudsman																				
Database on the seconded and directly hired Scientific Personnel																				
S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
1	1998	A.R. 1998	S. V.	Human Rights			2001 Special Scientific Personnel	PhD		YES									Lecturer at the Department of Political Science and Public Administration of Athens University (subject: International and European Studies with an emphasis on Modern Policies and their Institutional Dimensions) G.G. vol. NPDD, no 72, 5.4.2001	
2	1998	A.R. 1998	A. D.	Human Rights			Special Scientific Personnel	Postgraduate Degree		YES						Secondment to the Political Office of the Prime Minister as Special Adviser (G.G. vol. YODD, no 456, 20.10.2009)				
3	1998	A.R. 1998	M. K.	Human Rights			Special Scientific Personnel	Postgraduate Degree			YES	Annuled	Ministry of the Interior							
4	1998	A.R. 1998	M. K.	Human Rights			Special Scientific Personnel	Postgraduate Degree			YES	Annuled	Ministry of Development							

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
5	1998 A.R.	1998	P. L.	Human Rights		Passed away in 1999/ A.R. 1999	Special Scientific Personnel	Postgraduate Degree			YES		National Statistical Service of Greece	Ministry of Economics						
6	1998 A.R.	1998	I. M.	Human Rights			Special Scientific Personnel	Postgraduate Degree			YES		Ministry of National Economy	Ministry of National Economy						
7	1998 A.R.	1998	I. M.	Human Rights			Special Scientific Personnel	University Degree	YES		YES		Prefecture of Athens	Ministry of the Interior						
8	1998 A.R.	1998	K. B.	Human Rights			Special Scientific Personnel	PhD		YES						Secondment as Special Collaborator at the General Secretariat of the Government by decision of the Prime Minister Konstantinos Karamanlis (2004-2008) G.G. vol. C, no 79, 23.3.2004 Revocation of the secondment by decision of the Prime Minister Georgios Papandreou (G.G. YODD, vol. 493, 20.11.2009)			Member of the Committee for the modernisation and review of the legal framework of Regions End of work: 31.12.2004 (G.G. vol. B, no 1345, 31.8.2004) Member of the Special Legislative Drafting Committee for the final processing and formulation of the draft law on the establishment of the Judicial Police (G.G. vol. B, no 701, 25.5.2005)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism	
8			K. B.																Member of the Working Group for the conduct of preliminary works on the codification of the legislation regarding Primary and Secondary Education End of work: 31.3.2007 (G.G. vol. B, no 1607, 1.11.2006)	Member of the Committee for the modernisation and review of the legal framework on Regions End of work: 30.9.2007 (G.G. vol. B, no 77, 27.2.2007)	Member of the Committee for the modernisation and review of the legal framework on Regions End of work: 31.12.2008 (G.G. vol. B, no 233, 28.5.2008)

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
9	1998	A.R. 1998	A. T.	Human Rights		2010	Special Scientific Personnel	Postgraduate Degree/PhD 2006		YES						Deputy Ombudsman of the Department of Human Rights (G.G. vol. C, no 148, 27.6.2003) Assumption of duties: 3.7.2003				
10	1998	A.R. 1998	M. T.	Human Rights			Special Scientific Personnel	PhD		YES										Member of the Hellenic League for Human Rights (HLHR), Source: Newspaper Kathimerini, available at: http://news.kathimerini.gr/4Dcgi/4Dcgi/_w_articles_civ_118_28/03/2009_309181 , date of access: 6.6.2010
11	1999	A.R. 1999	C.C.	Human Rights			Special Scientific Personnel	Postgraduate Degree		YES						Deputy Ombudswoman of the Department of Quality of Life (G.G. vol. C, no 135, 1.6.2005) Assumption of duties: 6.6.2005				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
12	2001 A.R. 2001	C. S.		Human Rights		2010	Special Scientific Personnel	Postgraduate Degree	YES		YES		Ministry of National Economy and Finance						Decision (3680/21.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
13	2003 A.R. 2003	L. B.		Human Rights			Special Scientific Personnel	University Degree		YES									Decision (16763/29.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	NGOs Member of the Research Centre for Minority Groups (KEMO) Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 2.5.2010

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
14	2003	A.R. 2003	C. P.	Human Rights			2009 Special Scientific Personnel			YES							Vice-President of the Management Board of the National Centre for Vocational Guidance Three-year mandate (G.G. vol. B, no 721, 22.8.1996)	Assistant Professor at the Department of Law of the University of Cyprus (subject: Penal Law) Source: Decision 14 of the Senate of the University of Cyprus dated July 1, 2009, available at: http://194.42.1.1/~rector/summaries/senate/Sen142009.htm , date of access: 2.5.2010		
																			Member of the Working Group in his capacity as Adviser of the Minister of Justice for the amendment of law 927/79 regarding the punishment of acts aiming at racial discrimination (G.G. vol. B, no 278, 20.3.1998)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
14			C. P.														Member of the Working Group in his capacity as Adviser of the Minister of Justice on the codification of provisions regarding the punishment of the violators of drug legislation and the collection of international conventions referring to these criminal acts (G.G. vol. B, no 291, 24.3.1998)			
																	Member of the Legislative Drafting Committee in his capacity as Adviser of the Minister of Justice on the final elaboration of the draft law Prison Code (G.G. vol. B, no 1232, 4.12.1998)			

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
14			C. P.														Member of the Working Group in his capacity as Adviser of the Minister of Justice on the study and elaboration of issues regarding child pornography (G.G. vol. B, no 1253, 14.12.1998)			
																		Ex officio member of the National Committee for Human Rights representing the Ministry of Justice (G.G. vol. B, no 1833, 1.10.1999)		
																		Revocation of the appointment (G.G. vol. B, no 269, 15.3.2001)		

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
14			C. P.														Special Collaborator at the Political Office of the Minister of Justice (G.G. vol. C, no 104, 27.4.2000) Revocation of the appointment: 31.3.2001 (G.G. vol. C, no 86, 20.3.2001)			
15	2005 A.R. 2005	E. K.		Human Rights			Special Scientific Personnel	PhD		YES							Member of the Working Group on the elaboration, study and formulation of the draft of the ratifying law and the necessary adjustments of the national legislation for the Convention on Corruption of the Council of Europe (G.G. vol. B, no 1167, 21.9.2000)			

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
16	2006 A.R. 2006	I. D.		Human Rights/Gender Equality 2010			Special Scientific Personnel	Postgraduate Degree	YES		YES		Corps of Labour Inspection	Ministry of Labour and Social Security						
17	1998 A.R. 1998	K. L.		Human Rights			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003				Alternate Member of the Committee for the Evaluation of Proposals for the 2009 Annual Programme of our country within the framework of the European Integration Fund. Action 09/2.1 entitled: Elaboration of a study on the issue: Women's Migration in Greece (G.G. vol. YODD, no 337, 18.10.2010)	
18	1998 A.R. 1998	A. M.		Human Rights	State-Citizen Relations/2004		Auxiliary Scientific Personnel	University Degree/Postgraduate Degree (2002)		YES					Special Scientific Personnel/2003					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
19	1998 A.R. 1998	A. P.		Human Rights			Auxiliary Scientific Personnel	PhD		YES					Special Scientific Personnel/2004					Regular Member of the Project Management Group for the codification of the existing legislation on the establishment, maintenance and operation of cemeteries and the formulation and elaboration of proposals for reforming and streamlining the current legal framework End of work: 31.6.2009 (G.G. vol. YODD, no 171, 16.4.2009)

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
19			A. P.																	Decision (250 Φ33.02/14.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
20	1998 A.R. 1998		A. S.	Human Rights	Quality of Life/2003		Auxiliary Scientific Personnel	University Degree/Postgraduate Degree (2000)		YES					Special Scientific Personnel/2003					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
21	1998 A.R. 1998	K. S.	Human Rights			2006	Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003			2006: Director of the Sector for the Protection of Refugees at the United Nations Refugee Agency in Athens, Source: The Official Website of the Greek Ombudsman, available at: http://www.synigors.gr/allodapoi/ews_archive.htm , date of access: 1.2.2011		
22	2001 A.R. 2001	E. P.	Human Rights				Auxiliary Scientific Personnel	Postgraduate Degree		YES						Unpaid leave of 18 months in order to work as an employee of auxiliary duties (agent auxiliaire A) at the General Directorate of Research of the European Commission (Unit A2-Support for Research Programme Implementation) in Brussels				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
23	2003 A.R. 2003	M. V.	Human Rights				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
24	2003 A.R. 2003	E. M.	Human Rights				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
25	2003 A.R. 2003	D. M.	Human Rights				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
26	2003 A.R. 2003	A. -G. R.	Human Rights			2005	Auxiliary Scientific Personnel	University Degree		YES										Candidate at the elections of the Athens Bar Association in 2002. Source: Newspaper Imerisia on Line, available at: http://www.imerisia.gr/article.asp?catid=12305&subid=2&pubid=49419 , date of access: 22.3.2011

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
27	2003 A.R. 2003	I. T.		Human Rights			2011 Auxiliary Scientific Personnel	Postgraduate Degree/PhD Source: The Official Website of Harvard University, available at: http://socialstudies.fas.harvard.edu/icb/icb.do?keyword=k66535&tabgroupid=icb.tabgroup99354 , date of access: 29.4.2011		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)			Lecturer at Harvard University Source: The Official Website of Harvard University, available at: http://socialstudies.fas.harvard.edu/icb/icb.do?keyword=k66535&tabgroupid=icb.tabgroup99354 , date of access: 29.4.2011 Submission of resignation from the Greek Ombudsman on January 2, 2011. Source: Diavgeia, available at: static.diavgeia.gov.gr/doc/4APQIM0-9 , date of access: 29.4.2011		

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
28	2003 A.R. 2003	G. T.		Human Rights			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)	On secondment as Advisor of the Secretary General for Migration Policy (renamed as General Secretariat for Population and Social Cohesion) at the Ministry of the Interior, Decentralization and Electronic Governance, Source: Official Website of the Independent Ecumenical Newspaper for the Greeks of North Epirus, To Orama, Independent available at: http://toorama.blogspot.com/2010/12/blog-post_30.html , date of access: 17.4.2011			Alternate Member of the Project Management Team for the codification of the existing legislation on the establishment, maintenance and operation of cemeteries and the formulation and elaboration of proposals for reforming and streamlining the current legal framework End of work: 31.6.2009 (G.G. vol. YODD, no 171, 16.4.2009)	Member of the Hellenic League for Human Rights (HLHR), Source: Official Website of the HLHR, available at: http://webcache.googleusercontent.com/search?q=cache:http://www.hlh r.gr/press/Europea nIntegrationForum brussels11.2009.doc , date of access: 1.2.2011

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
29	1998 A.R. 1998	I. A.		Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES						Secondment: President of the Second Regional Health Council of South Aegean, five-year mandate, G.G. vol. NPDD, no 87, 27.4.2001				
30	1998 A.R. 1998	Z. A.		Health and Social Welfare			Special Scientific Personnel	PhD		YES										
31	1998 A.R. 1998	A. V.		Health and Social Welfare			Special Scientific Personnel	University Degree	YES		YES		Ministry of Health and Welfare							
32	1998 A.R. 1998	D. G.		Health and Social Welfare		2001	Special Scientific Personnel	University Degree	YES		YES		Ministry of National Economy							
33	1998 A.R. 1998	T. G.		Health and Social Welfare		2004	Special Scientific Personnel	Postgraduate Degree	YES		YES		Ministry of the Interior							
34	1998 A.R. 1998	S. K.		Health and Social Welfare		2005	Special Scientific Personnel	Postgraduate Degree	YES		YES		Agricultural Security Organisation	Ministry of Labor and Social Security and Welfare						
35	1998 A.R. 1998	C. M.		Health and Social Welfare		1999	Special Scientific Personnel	Postgraduate Degree		YES									Lecturer at the General Department of Law, Panteion University of Political and Social Sciences (G.G. vol. C, no 357, 1.6.2007)	

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36	1998 A.R. 1998	V. B.	Health and Social Welfare				Special Scientific Personnel	University Degree/PhD 2001		YES						Secondment at the Political Office of the Minister of Development (G.G. vol. C, no 300, 10.11.2004) De iure end of the secondment from 26.4.2005 after her appointment as Deputy Ombudswoman of the Consumer (G.G. vol. C, no 137, 2.6.2005)		Deputy Ombudswoman of the Consumer 5 year mandate (G.G. vol. C, no 137, 2.6.2005)		
37	1998 A.R. 1998	R. P.	Health and Social Welfare				Special Scientific Personnel	University Degree		YES			Ministry of Public Order							

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38	1998 A.R. 1998	K. P.	Health and Social Welfare	State-Citizen Relations/2004			Special Scientific Personnel	University Degree/PhD 2005	YES		YES		Agricultural Security Organisation	Ministry of Labor, Social Security and Welfare					Scientific Collaborator (member of the teaching Personnel under contract) of the Department of Local Authorities of the Technological Educational Institute of Kalamata Academic Years 2009-2010, 2010-2011 Source: Official Website of the Educational Institute of Kalamata, available at: http://195.130.95.180/unistudent/Personnellist.asp?level=2&mnuid=program;submnu2&prID , date of access: 7.6.2010, http://195.130.95.7/attachments/article/51/pr_ta_10-11_xeim.doc , date of access: 3.2.2011	
39	1998 A.R. 1998	P. T.	Health and Social Welfare			2001	Special Scientific Personnel	Postgraduate Degree		YES										

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40	1999 A.R. 1999	I. K.	Health and Social Welfare			2000	Special Scientific Personnel	PhD		YES								Special Legal Service at the Ministry of Foreign Affairs (G.G. vol. C, no 33, 17.2.2000)		
41	1999 A.R. 1999	M. P.	Health and Social Welfare	2003/Children's Rights			Special Scientific Personnel	University Degree/Postgraduate Degree(2000)		YES										NGOs Alternate Member of the Management Board of the Hellenic League for Human Rights (HLHR), Source: Official Website of the HLHR, available at: http://www.hlhr.gr/details.php?id=18 , date of access: 1.2.2011 Member of the Research Centre for Minority Groups (KEMO) Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 2.5.2010

S.N.	YEAR	Government Gazette: Vol, No of issue-Date / Annual Report A.R.	Name-Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
42	1999 A.R. 1999	E. F.		Health and Social Welfare	Human Rights/2004		Special Scientific Personnel	PhD		YES									Member of the teaching Personnel under contract of the Greek Open University (2001-) Source: Greek Open University, available at: http://www.eap.gr/ak_pros/deo10.htm , date of access: 2.2.2011 Member of the Special Legislative Drafting Committee for the reform of the Prison Code ratified by the law 2776/1999 End of work: 31.12.2010 (G.G. vol. YODD, no 96, 17.3.2010)	

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42			E. F.																Decision (16485/31.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
43	2001 A.R. 2001	P. G.	Health and Social Welfare				Special Scientific Personnel	Postgraduate Degree	YES		YES		Ministry of Health and Welfare							
44	2001 A.R. 2001	P. K.	Health and Social Welfare				Special Scientific Personnel	PhD		YES										

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45	2001 A.R.	2001	I. K.	Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree	YES		YES		General Secretariat of the National Statistical Service of Greece	Ministry of Economics					Decision (250 Φ233.02/14.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
46	2001 A.R.	2001	A. M.	Health and Social Welfare			Special Scientific Personnel	University Degree	YES		YES		Ministry of Development							
47	2003 A.R.	2003	S. A.	Health and Social Welfare			Special Scientific Personnel	University Degree		YES										
48	2003 A.R.	2003	A. M.-N.	Health and Social Welfare			Special Scientific Personnel	PhD		YES										
49	2003 A.R.	2003	K. B.	Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES										

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50	2003 A.R. 2003	E. P.		Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES									Decision (16485/31.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
51	2003 A.R. 2003	E. S.		Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES										
52	2003 A.R. 2003	P. T.		Health and Social Welfare		2007	Special Scientific Personnel	PhD		YES									Lawyer with a salary mandate at the General Hospital of Athens "Hippokrateion"(Government Gazette, vol. C, no 522, 30.7.2007)	

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53	2005 A.R. 2005	P. Z.		Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES									Decision (3680/21.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
54	2005 A.R. 2005	V. T.		Health and Social Welfare			Special Scientific Personnel	PhD		YES									Adjunct Professor at the Police Officers School and the Further Education and Training School of the Hellenic Police Academy Academic Years 2003-2009	

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54			V. T.																Adjunct Professor at the University of Aegean (Dptm of Product and Systems Design Engineering) Academic Year 2004-2005, University of Patras (Dptm of Business Administration) Academic Year 2006-2008 Source: CV, Official Website of the Department of Political Science of the Demokritos University of Thrace, available at: http://www.polisci.duth.gr/user/69 , date of access: 6.6.2010	

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54			V. T.																Adjunct Professor at the University of Central Greece (Dptm of Economic and Regional Development), Academic Years: 2007-2010 http://www.poa.ucg.gr/upload/111145_livadia.pdf , date of access: 6.6.2010	Adjunct Professor at the Demokritos University of Thrace (Dptm of Political Science) Academic Year: 2009-2010 Source: Official Website of the Department of Political Science of the Demokritos University of Thrace, available at: http://www.pols.ci.duth.gr/user/69 , date of access: 6.6.2010

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retire ment	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
54			V. T.																Scientific Collaborator under contract at the Technological Educational Institute of Athens (TEI) (Departments of Social Work and Department Commerce and Marketing) Source: Official Website of the Technological Educational Institute of Athens, Academic Years 2008-2010 available at: www.teiath.gr/userfiles/jgalpas/documents/.../marketing.pdf , https://estudy.teiath.gr/unistudent/Personnellist.asp?level=2&mnuid=program;submnu2&prID=112 date of access: 6.6.2010	

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54			V. T.																Expert - Assessor, member of the Unified Assessors Register for the technical assessment of the bids of the international open tender for the selection of contractors for the project "Training of unemployed in certified Centres of Vocational Training for the period 2006-2008 following the Call for Proposals (ministerial decision no 184090/25.8.2006 of the Minister of Development and Social Protection within the framework of the Operational Programme "Employment and Vocational Training" co-financed by the European Union (G.G. vol. B, no 278, 2.3.2007)	

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54			V. T.																	Decision (3680/21.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
54			V. T.																Member of the hourly paid teaching Personnel for the training of the special uniformed personnel of the Municipal Police Source: Official Website of the Ministry of the Interior, available at: http://webcache.googleusercontent.com/search?q=cache:http://www.ypes.gr/UserFiles/e50fe769-b130-4051-aac3-a2d281ea9393/ankoinosi_apotelesmata_4_2009n.doc, date of access: 9.4.2011	
55	2006 A.R. 2006	I. K.		Health and Social Welfare			Special Scientific Personnel	PhD		YES										

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56	2006 A.R. 2006	E. L.		Health and Social Welfare			Special Scientific Personnel	PhD		YES							Member of the Personnel of Auditors of the Hellenic Data Protection Authority (G.G. vol. C, no 8, 16.1.2006) Submission of resignation on 23.6.2006 (G.G. vol. C, 272, 14.9.2006)		Member of the working group for the conduct of preliminary works regarding the elaboration of a Code on the legislation on the National Health System End of work: 30.11.2006 (G.G. vol. B, no 727, 15.6.2006)	Adjunct Professor at the Department of Law of the Demokritus University of Thrace. Source: Official Website of Department of Law of the Demokritus University of Thrace, available at: http://www.law.duth.gr/index.php?rm=30&pr=5&srm=1 , date of access: 2.2.2011
57	2006 A.R. 2006	K-E. T.		Health and Social Welfare			Special Scientific Personnel	Postgraduate Degree		YES										

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58	2006 A.R. 2006	I. T.		Health and Social Welfare			Special Scientific Personnel	PhD			YES		Security Fund of Marine Agents and Employees	Ministry of Employment and Social Protection					Decision (250 Φ233.02/14.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
59	1998 A.R. 1998	E. G.		Health and Social Welfare	Children's Rights/ 2004		2010 Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					
60	1998 A.R. 1998	C. D.		Health and Social Welfare			2000 Auxiliary Scientific Personnel	Postgraduate Degree		YES								Appointment at the Ministry of Economics as U.E. Tax Officer (G.G. vol. C, no 153, 30.5.2000)		
61	1998 A.R. 1998	V. M.		Health and Social Welfare			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					

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62	1998	A.R. 1998	E. M.	Health and Social Welfare	2003/Children's Rights - Human Rights/2006		Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003					
63	1998	A.R. 1998	E. S.	Health and Social Welfare			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003					
64	1998	A.R. 1998	A. T.	Health and Social Welfare			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					
65	1999	A.R. 1999	E. V.	Health and Social Welfare		2001	Auxiliary Scientific Personnel	University Degree-DESS		YES										

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66	1999 A.R. 1999	K. M.		Health and Social Welfare			Auxiliary Scientific Personnel								Special Scientific Personnel-2001	On Secondment to the Political Office of the Minister of Health and Social Solidarity from 25.10.2004 (G.G. vol. C, no 330, 17.12.2004) Renewal of the Secondment at the Political Office of the Minister of Health and Social Solidarity from 16.2.2006 (G.G. vol. C, no 107, 11.4.2006) Revocation of the secondment (G.G. vol. YODD, no 111, 19.3.2007)				

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66			K. M.													Legal Advisor of the Mayor of Athens (indirect information) (G.G. vol. YODD, no 299, 18.7.2007) Member of the Management Board of the Society for the Protection of Minors of Athens, representing the Municipality of Athens, Source: The Official Website of the Society for the Protection of Minors of Athens, available at: http://www.epaa.gr/ , date of access: 17.4.2011,				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
66			K. M.													Member of the Management Board of the Athens Municipal Radio Enterprise, Athens 9.84, Source: The Official Website of the Radio Station, available at: http://athina984.gr/node/2118 , date of access: 17.4.2011				
67	2001 A.R. 2001	D. P.		Health and Social Welfare			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel-2003	Revocation of the appointment: 10.2.2011, Source: http://www.athina984.gr/node/136934 , date of access: 17.4.2011 Member of the National Commission for the Social Integration of Migrants, 2 year mandate. G.G. vol. YODD, no 299, 18.7.2007				

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68	2003 A.R. 2003		A. A.	Health and Social Welfare			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
69	2003 A.R. 2003		E. G.	Health and Social Welfare			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
70	2003 A.R. 2003		E. K.	Health and Social Welfare		2007	Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)			Succeeded in the entrance examinations for the National School of Judicial Officials, (G.G. vol. C, no 118, 1.3.2007) Appointed to the Court of Audit, (G.G. vol. C, no 1106, 4.12.2008)		
71	2003 A.R. 2003		E. M.	Health and Social Welfare			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)	On Secondment to the Political Office of the Minister of Health and Social Solidarity (G.G. vol. YODD, no 504, 1.12.2009)				

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72	2003 A.R. 2003		E. P.	Health and Social Welfare			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
73	2003 A.R. 2003		F. P.	Health and Social Welfare	Human Rights/2006		Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
74	2003 A.R. 2003		S. C.	Health and Social Welfare		2004	Auxiliary Scientific Personnel	Postgraduate Degree		YES								Ministry of Transport as U.E. Chemist. Source: Diavgeia, static.diavgeia.gov.gr/doc/4I091-9, date of access: 18.4.2011		
75	1998 A.R. 1998		C. A.	Quality of Life		2002	Special Scientific Personnel	Postgraduate Degree			YES		Constructio	Anonymous						
76	1998 A.R. 1998		K. A.	Quality of Life			Special Scientific Personnel	Postgraduate Degree		YES			ns - EKTENEP OL	Company of the National Insurance						
77	1998 A.R. 1998		M. V.	Quality of Life		2004	Special Scientific Personnel	Postgraduate Degree	YES		YES		Civil Aviation Authority	Ministry of Transport and Communications						

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78	1998 A.R. 1998		N. V.	Quality of Life			Special Scientific Personnel	University Degree/Postgraduate Degree 2004		YES						On Secondment to the Office of the Minister of Environment, Energy and Climatic Change as Special Adviser (G.G. vol. YODD, no 64, 22.2.2010)				Member of the Management Board of the Hellenic Mapping and Cadastral Organisation (OKXE) (three year-mandate) (G.G. vol. YODD, no 5, 17.1.2011)

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78			N. V.													Member of the Working Group for the submission of a recommendation upon the necessary amendments regarding the legal framework on quarries. Source: Diavgeia, Ministerial Decision, available at: static.diavgeia.gov.gr/doc/4A^A0-Ψ , date of access: 22.3.2011				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
79	1998 A.R. 1998	K. L.	Quality of Life			2001	Special Scientific Personnel	PhD		YES			Ministry of the Interior. Appointment at the Greek Ombudsman in 2003				Special Scientist of the Unit of Strategic Planning and Policy Analysis of the Ministry of the Interior Source: Who is who in Greece, available at: http://www.whoiswho-verlag.gr , date of access: 7.6.2010		Since 1994 external collaborator of the Third Programme of the Greek Radio, responsible for the opera broadcasts of the radio station. Since 1997 he has been writing articles as music critic for the newspaper AVGI - Sunday issue (expressing the party of the left, Coalition) Source: Who is who in Greece, available at: http://www.whoiswho-verlag.gr , date of access: 7.6.2010	Trade-unionist He served as Vice-President and is member of the Management Board of the Association of the Employees of the Greek Ombudsman Source: Who is who in Greece, available at: http://www.whoiswho-verlag.gr , date of access: 7.6.2010

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
80	1998 A.R. 1998		V. B.	Quality of Life			Special Scientific Personnel	PhD		YES										Member of the teaching Personnel under contract of the Greek Open University (Academic Year: 2006-2007) Source: Official Website of the Greek Open University, available at: http://www.eap.gr/programmes/diplomatiikes/pse/stoixeia_sep_de_2006_2007.xls , date of access: 8.6.2010
81	1998 A.R. 1998		A. N.	Quality of Life			2004 Special Scientific Personnel	Postgraduate Degree		YES			Ministry of Environment, Planning and Public Works							

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82	1998 A.R.	1998	A. O.	Quality of Life			1999 Special Scientific Personnel	PhD		YES									Member the special scientific Personnel at the National Council for Radio and Television Source: Diavgeia, Decision 9/2011, available at: static.diavgeia.gov.gr/doc/4A1OIME-4 , date of access: 22.3.2011	
83	1998 A.R.	1998	M. P.	Quality of Life			Special Scientific Personnel	Postgraduate Degree		YES										

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84	1998 A.R. 1998	A. P.	Quality of Life				2002 Special Scientific Personnel	PhD		YES							Special Collaborator at the Ministry of Culture (starting from 11.12.2000) G.G. vol. C, no 79, 23.3.2004. Revocation of the appointment: 18.3.2004 (G.G. vol. C, no 348, 19.12.2004)	Member of the Personnel of the Organisation Unit of Development Programmes (MOU) S.A. supervised by the Ministry of Economy (April 2002) Legal Adviser at the Managing Authority of the Operational Programme "Education and Initial Vocational Training" of the Ministry of National Education and Religious Affairs (October 2005) Member of the Scientific Committee constituted by the National Centre of Public Administration regarding the reforming of the legislation of the Centre	Appointed as Associate Professor (Human Rights Unit) at the School of Officers of the Greek Police pursuant to the no 6501/5/83b/20.8.1 998 decision of the Chief of the Greek Police (academic year: 1998-1999) Member of the Teaching Personnel under contract at the University of Thessaly for the Academic Year 2000-2001 Legal Adviser of the Research Group regarding the promotion of the archaeological sites of the city of Argos and their harmonious incorporation into the urban web (March 2000)	Member of the Council of Students of the Political Youth "Rigas Feraios" (1985-1987) (Party of the Greek Left) Secretary of the association of the scientific Personnel of the Greek Ombudsman Member of the Sector on Gender Equality of the Central Committee of PASOK (2003-2004) President of the Institute of Strategic and Development Studies - Andreas Papandreou (ISTAME) of Magnessia (2004)

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84			A. P.															Source: Papatolias CV, available at: http://papatolias.wordpress.com/about/ , date of access: 2.5.2010	Special Adviser at the Municipality of Haidari on issues regarding the implementation of European Projects of 2000 (2nd Runner-up)	Parliamentary Candidate of PASOK in Magnessia in the National Elections of 2000 (2nd Runner-up)
																		Member of the Committee for the conduct of a promotion of tender and the assessment of the bids for the project Olympic Games of 2004 (June 2001) for the Support of the Special Service for the Implementation of Programmes of the Third Community Support Framework	elaboration of studies for the promotion of programmes related to the Olympic Games of 2004 (June 2001) Source: Papatolias CV, available at: http://papatolias.wordpress.com/about/ , date of access: 2.5.2011	Imposition of a fine to Parliamentary Candidates of the National Elections of 2000 for not publishing their electoral income and expenses in a newspaper of their electoral constituency (Apostoloa Papatolias, no 1148 of the relevant list

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84			A. P.															of the Ministry of National Education and Religious Affairs as final beneficiary of the projects of Operational Programme "Education and Initial Vocational Training" (G.G. vol. B, no 187, 13.2.2006) Member of the Work Management Group for the Simplification of Procedures and Forms in Public Administration (G.G. vol. B, no 192, 20.2.2002)		for the imposition of a fine) G.G. vol. B, no 411, 11.4.2001. Moreover, it seems that he did not resign from his post at the Greek Ombudsman prior to his nomination as parliamentary candidate pursuant to article 56 of the 1975/1986 Constitution

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84			A. P.																	<p>He was elected Prefect of Magnessia in the Prefectural and Municipal Elections of 2006, Source: Ministry of the Interior, http://ekloges-prev.singularlogic.eu/2006static/nom-arxia37.htm, date of access, 31.1.2011</p> <p>He ran for Regional Commissioner of the region of Thessaly in the Municipal and Regional Elections of 2010. Member of the Regional Council Source: Ministry of the Interior, available at: http://ekloges-prev.singularlogic.eu/dn2010/public/index.html#{"page":"level","params":{"level":"snom_n","id":5}}, date of access: 31.1.2011</p>
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84			A.P.																	Founder of the NGO "Network of Voluntary Organisations of Magnessia" (2000) Member of the Events Committees of "Citizen Everyday", a non-profit corporation for the promotion of participatory democracy founded in 2005 by the Network Volunteers of PASOK Source: Papatolias CV, available at: http://papatolias.wordpress.com/about/ , date of access: 2.5.2010
85	1999 A.R.	1999	A. K.	Quality of Life		2000	Special Scientific Personnel	PhD		YES								Special Legal Service at the Ministry of Foreign Affairs (G.G. vol. C, no 33, 17.2.2000)		

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86	1999 A.R. 1999	E. L.	Quality of Life				Special Scientific Personnel	Postgraduate Degree		YES						Secondment to the Political Office of the Deputy Minister of Foreign Affairs (G.G. vol. YODD, no 520, 11.12.2009)				Member of the Sector for the Environment and Planning of the party of PASOK, date of publication of the composition of the Sector: 8.12.2008 Source: Official Website of PASOK, available at: http://www.pasok.gr/portal/resource/content/Object/id/7d45db1b-7f0c-426d-a97b-a72139975caf , date of access: 8.6.2010
87	1999 A.R. 1999	Angeliki Bosdogianni	Quality of Life			2000	Special Scientific Personnel	PhD		YES								Appointment at the Ministry of Finance as U.E. Engineers (G.G. vol. C, no 17, 27.1.2000)		

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88	2000 A.R. 1999	K. P.	Quality of Life	Children's Rights/2004			Special Scientific Personnel	Postgraduate Degree	YES		YES		Ministry of the Interior							Second Vice-President of the Union of the Graduates of the National Schools of Public Administration and Local Government. Source: The Official Website of the Union, available at: http://nspa.gr/nomothesia.htm , date of access: 22.3.2011
89	2001 A.R. 2001	Charikleia Athanassopoulou	Quality of Life				Special Scientific Personnel	PhD		YES										
90	2001 A.R. 2001	M. G.	Quality of Life				Special Scientific Personnel	University Degree			YES		Ministry of Environment, Planning and Public Works							
91	2001 A.R. 2001	Z. K-R.	Quality of Life				Special Scientific Personnel	University Degree			YES		Ministry of Environment, Planning and Public Works							

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92	2001 A.R. 2001		C. T.	Quality of Life		2009	Special Scientific Personnel	University Degree/ PhD (2007)		YES									Lecturer at the Department of Law of the University of Cyprus (subject: Human Rights) Source: Decision 14 of the Senate of the University of Cyprus dated July 1, 2009, available at: http://194.42.1.1/~rector/summaries/senate/Sen142009.htm , date of access: 2.5.2010	

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93	2002 A.R. 2002		K. P.	Quality of Life			Special Scientific Personnel	PhD			YES		Ministry of National Defence (Appointment: G.G. vol. C, no 175, 20.6.2000)						Member of the Teaching Personnel under contract pursuant to the Presidential Decree 407/80 at the Department of Ichthyology and Aquatic Environment of the University of Thessaly (Spring Semester, Academic Year 2009-2010) Source: Official Website of the University of Thessaly, available at: http://www.apae.uh.gr/prosopiko_didpd_407.html , date of access: 7.6.2010	

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93			K. P.																	Decision (2299/8.3.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
94	2003 A.R. 2003		E. M.	Quality of Life			Special Scientific Personnel	Postgraduate Degree			YES									

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95	2003 A.R. 2003	E. S.	Quality of Life				Special Scientific Personnel	PhD		YES										Member of the teaching Personnel under contract of the Greek Open University Academic Years: 2009-2010, 2010-2011 Source: Official Webpage of the Greek Open University, available at: http://www1.eap.gr/images/pspde_katanomi_2009_10_F11545.xls , http://www2.eap.gr/frameset.jsp?locale=el , date of access: 3.2.2011

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
96	2003 A.R. 2003	S. S.	Quality of Life	Health and Social Welfare/2005			Special Scientific Personnel	Postgraduate Degree		YES									Laboratory Collaborator at the Technological Educational Institution of Athens (TEI) (Department of Public Health) for the Academic Year 2009-2010 Source: Official Website of the Technological Educational Institution of Athens, available at: https://estudy.teiath.gr/unistudent/Personnellist.asp?level=2&mnuid=program;submnuid=74 , date of access: 8.6.2010	
97	2003 A.R. 2003	E. F.	Quality of Life				Special Scientific Personnel	PhD		YES										

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism	
98	2005 A.R. 2005		V. K.	Quality of Life		2010	Special Scientific Personnel	PhD		YES								Lecturer at the Departement of General Law of the Panteion University for Social and Political Sciences (subject: European Administrative Law) G.G. vol. C, no 463, 7.6.2010)	Decision (1464 Φ.233.02/15.2.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.p hp , date of access: 24.3.2011)	Alternate representative of the party of PASOK in the Committee constituted for the Control of Electoral Violations in the Region of Thessaly (Prefecture of Larissa) G.G. vol. B, no 1659, 21.8.2007	
99	2005 A.R. 2005		M. M.	Quality of Life			Special Scientific Personnel	PhD		YES											

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100	1998 A.R. 1998	M. G.	Quality of Life			1999 Auxiliary Scientific Personnel	University Degree			YES								Appointment at the Greek Agricultural Insurance Organisation as U.E. Agronomist Source: The Official Website of the Greek Agricultural Insurance Organisation, available at: http://www.elga.gr/index.php?option=com_content&view=article&id=176:2010-09-22-11-19-32&catid=92:2010-09-22-11-17-13&Itemid=136 , date of access: 22.3.2011		

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101	1998 A.R.	1998	Z. K.	Quality of Life			Auxiliary Scientific Personnel	PhD		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)	On Secondment to the Office of the Secretary General of the Ministry of National Education and Religious Affairs as Head of the Office (starting from 2.6.2003) Source: Annual Report of the Greek Ombudsman for the Year 2003, available at: http://www.synigos.gr/annual03/10pararthmata.pdf , date of access: 1.2.2011 Revocation of the secondment (G.G. vol. C, no 7, 14.1.2004)			Decision (250 Φ23.02/14.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
102	1998 A.R.	1998	I. K.	Quality of Life	Children's Rights/2003		Auxiliary Scientific Personnel	University Degree/ Postgraduate Degree (2007)		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
103	1998 A.R. 1998	V. D.	Quality of Life				2000 Auxiliary Scientific Personnel	PhD		YES								Legal Collaborator (permanent post) at the Ministry of the Interior, Source: Paper Bookland, available at http://www.paper-bookland.gr/books.asp?action=author&authorID=20952 , date of access: 22.3.2011	Adjunct Professor at the University of the Aegean, the Higher Technological Educational Institute of Herakleion, the National Centre of Public Administration. Since 2001 adjunct Professor of the Open University of Greece. Source: Paper Bookland, available at http://www.paper-bookland.gr/books.asp?action=author&authorID=20952 , date of access: 22.3.2011	
104	1998 A.R. 1998	D. P.	Quality of Life				Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
105	1998	A.R. 1998	M. P.	Quality of Life			Auxiliary Scientific Personnel	Postgraduate Degree/PhD 2006		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)				Decision (250 Φ233.02/14.1.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	NGO Vice-President of the Greek Centre for the Protection of the Environment-Ecosystem
106	1999	A.R. 1999	K. V.	Quality of Life			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					
107	1999	A.R. 1999	A. P.	Quality of Life	2001/State-Citizen Relations		Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 368, 5.3.2008)					
108	1999	A.R. 1999	K. S.	Quality of Life			Auxiliary Scientific Personnel	University Degree/Postgraduate Degree 2001		YES					Special Scientific Personnel/2005					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
109	2001 A.R. 2001	V. V.	Quality of Life				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					
110	2001 A.R. 2001	I. K.	Quality of Life				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003					
111	2003 A.R. 2003	M. A.	Quality of Life				Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)		Secretary of the Deputy Ombudsman at the Department of Quality of Life (1998-2003)			
112	2003 A.R. 2003	D. V.	Quality of Life				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)				Decision (16341/14.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
113	2003 A.R. 2003		A. P.	Quality of Life			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
114	2003 A.R. 2003		M. R.	Quality of Life			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
115	2003 A.R. 2003		K. S.	Quality of Life		2005	Auxiliary Scientific Personnel	Postgraduate Degree		YES								Judge at the Council of State (G.G. vol. C, no 280, 25.10.2005)		
116	2003 A.R. 2003		D. F.	Quality of Life			Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
117	2004 A.R. 2004		E. A.	Quality of Life	Human Rights/2006		Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 368, 5.3.2008)					

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118	1998 A.R.	1998	P. A.	State-Citizen Relations			2003 Special Scientific Personnel	University Degree			YES		Ministry of the Interior			Secondment to the Office of the Inspector General of Public Administration (2003-) as Head of the Directorate of the Secretariat, Source: Report of the Special Parliamentary Committee on Institutions and Transparency, available at: http://www.dee.gr/dee/mediaupload/pdf_files/EPITROPH%20THESMON-DIAFANEIAS.pdf , date of access: 1.2.2011				
119	1998 A.R.	1998	Efstratios Georgoulas	State-Citizen Relations			2001 Special Scientific Personnel	PhD			YES								Lecturer at the Department of Sociology, University of Aegean (G.G. vol. NPDD, no 70, 3.4.2001)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
120	1998 A.R. 1998	S. D.		State-Citizen Relations			Special Scientific Personnel	Postgraduate Degree/PhD 2003		YES						Secondment to the Office of the Inspector General of Public Administration 2007-2009, Annual Reports of the Inspector General of Public Administration, available at: http://www.gedd.gr/article_data/Linked_files/49/EktheshGEDD2007.pdf , http://www.gedd.gr/article_data/Linked_files/68/EktheshGEDD2008final.pdf , http://www.gedd.gr/article_data/Linked_files/79/Ekthesh2009GEDDfinal.pdf , date of access: 1.2.2011			Decision (16763/29.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
121	1998 A.R. 1998	E. T.		State-Citizen Relations			Special Scientific Personnel	University Degree/Postgraduate Degree 1999	YES		YES		Ministry of the Interior							
122	1998 A.R. 1998	Ekaterini Kalliontzi		State-Citizen Relations		1999	Special Scientific Personnel	University Degree			YES		Ministry of the Interior					Transfer to the Secretariat of the Ombudsman as Director, G.G. Vol. C, no 140, 24.6.2003		

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism	
123	1998 A.R. 1998	E. K.	State-Citizen Relations			2001	Special Scientific Personnel	University Degree		YES			Agricultural Bank of Greece								
124	1998 A.R. 1998	M. L.	State-Citizen Relations				Special Scientific Personnel	Postgraduate Degree		YES						Secondment to the Office of the Inspector General of Public Administration 2003-2005, Annual Reports of the Inspector General of Public Administration, Annual Report of the Greek Ombudsman for the Year 2003 available at: http://www.synigoros.gr/annual03/10pararthmata.pdf , http://www.gedd.gr/article_data/Linked_files/20/EktheshGEDD2004.pdf http://www.gedd.gr/article_data/Linked_files/21/EktheshGEDD2005.pdf , date of access: 1.2.2011			Decision (250 Φ233.02/14.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)		

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism	
125	1998 A.R. 1998	C. L.		State-Citizen Relations		2000	Special Scientific Personnel	Postgraduate Degree			YES		Teacher in Secondary Education							Decision (16763/29.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
126	1998 A.R. 1998	Y. M.		State-Citizen Relations			Special Scientific Personnel	Postgraduate Degree			YES	Annuled	Ministry of National Economy and Finance								
127	1998 A.R. 1998	P. P.		State-Citizen Relations		2007	Special Scientific Personnel	University Degree			YES		Ministry of Environment, Planning and Public Works						Secondment at the Political Bureau of the Minister of Justice from 27.9.2007 until 31.3.2008 G.G. vol. YODD, no 451, 22.10.2007, revocation of the secondment G.G. vol. YODD, no 166, 16.4.2008		

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128	1998 A.R. 1998	M. P.		State-Citizen Relations			Special Scientific Personnel	Postgraduate Degree		YES										Alternate ex officio member of the Central Committee for the Simplification of Procedures representing the institution of the Ombudsman (Government Gazette, vol. B, no 1431, 17.9.2004) Decision (16763/29.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
129	1999 A.R. 1999	S. M.	State-Citizen Relations			2000	Special Scientific Personnel	PhD		YES								Special Collaborator at the Ministry of Culture (starting from 11.12.2000) G.G. vol. C, no 79, 23.3.2004. Revocation of the appointment: 18.3.2004 (G.G. vol. C, no 348, 19.12.2004)		Candidate Counselor at the elections of the Athens Bar Association in 2010. Source: The Official Website of the Candidate President Vassilis Katsafadas, http://www.dsa-katsafados.gr/Candidates.htm , date of access: 23.3.2011 Member of Amnesty International. Member of the Political Party Union of Independent Citizens Source: CV, The Official Website of the Candidate President Vassilis Katsafadas, http://www.dsa-katsafados.gr/Candidates.htm , date of access: 23.3.2011

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129			S. M.															Lawyer with a salary mandate at the Regulatory Authority for Energy (RAE) Source: The Official Website of RAE, available at: http://www.rae.gr/site/categories_new/about_rae/organization/secretary.asp , date of access: 23.3.2011		
130	1999 A.R. 1999		K. P.	State-Citizen Relations			2004 Special Scientific Personnel	Postgraduate Degree		YES								Appointment at the Ministry of Economics and Finance as U.E. Customs Officer (G.G. vol. C, no 8, 15.1.2004)		

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131	1999 A.R. 1999	D. C.		State-Citizen Relations			2003 Special Scientific Personnel	PhD		YES								Lecturer at the Department of Political Science and History of Panteion University of Social and Political Sciences (subject: Comparative Politics: Europe-Minorities) G.G. vol. NPDD, no 288, 20.11.2003 b Since 2003 he has been responsible for the Eunomia Project coordinated by the Greek Ombudsman Source:Annual Reports of the Greek Ombudsman for the years, 2003-2007		Civil Society-NGOs Since 1996 founding member and administrative secretary of the Research Centre for Minority Groups (KEMO) Since 2003 Source: KEMO Official Website, available at: http://www.kemo.gr/index.php?sec=members&item=52 , date of access: 1.2.2011 Since 2003 President of the Management Board of the Hellenic League for Human Rights (HLHR), Source: Official Website of the HLHR, available at: http://www.hlhr.gr/details.php?id=18 , date of access: 1.2.2011

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132	2001 A.R. 2001	E. G.	State-Citizen Relations				Special Scientific Personnel	University Degree			YES		Ministry of National Economy and Finance							
133	2001 A.R. 2001	C. Z.	State-Citizen Relations				Special Scientific Personnel	University Degree/Postgraduate Degree(2006)	YES		YES		Ministry of National Economy and Finance							
134	2001 A.R. 2001	P. M.	State-Citizen Relations			2003	Special Scientific Personnel	PhD			YES							Lecturer at the Department of Law, Athens University (G.G. vol. NPDD, no 2, 8.1.2003)		
135	2003 A.R. 2003	D. A.	State-Citizen Relations			2005	Special Scientific Personnel	PhD			YES							Lecturer at the Department of Balkan, Slavic and Oriental Studies of the University of Macedonia (subject: Comparative Politics: Communist and Post-Communist Regimes in Eastern Europe and the Former USSR) G.G. vol. NPDD, no 228, 13.9.2005)		NGOs Member of the Research Centre for Minority Groups (KEMO) Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 2.5.2010

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136	2003 A.R. 2003	K. D.		State-Citizen Relations			Special Scientific Personnel	PhD		YES										Decision (16763-29.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
137	2003 A.R. 2003	T. Z.		State-Citizen Relations			2007 Special Scientific Personnel	PhD		YES										Assistant Professor at the Department of Electricity of the Technological Educational Institution of Chalkida (subject: Electronics) G.G. vol. NPDD, no 171, 22.6.2006)

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138	2003 A.R. 2003	A. K.		State-Citizen Relations			Special Scientific Personnel	University Degree/Postgraduate Degree(2004)		YES										NGOs Regular Member of the Governing Board of the Special Synodical Committee for Migrants, Refugees, and Repatriated (Church of Greece) Three-year mandate: 2006-2009 Source: Official Website of the Church of Greece, available at: http://www.ecclesia.gr/greek/holysynod/committees/metanastes/kanonismos.htm , date of access: 8.6.2010

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138			A. K.																	General Secretary of the Governing Committee of the Greek Young Women's Christian Association Source: Official Website of the Young Women's Christian Association, available at: http://www.xen.gr/organization.html , date of access: 8.6.2010
139	2003 A.R. 2003	I. K.	State-Citizen Relations				Special Scientific Personnel	PhD		YES										
140	2003 A.R. 2003	A. K.	State-Citizen Relations				Special Scientific Personnel	PhD		YES										
141	2003 A.R. 2003	L. B.-D.	State-Citizen Relations				Special Scientific Personnel	PhD		YES										
142	2003 A.R. 2003	E. P.	State-Citizen Relations				Special Scientific Personnel	PhD		YES										

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143	2003 A.R. 2003	C. P.		State-Citizen Relations			Special Scientific Personnel	PhD		YES										Civil Society-NGOs Member of the Hellenic League for Human Rights (HLHR), Source: Official Website of the HLHR, available at: http://webcache.googleusercontent.com/search?q=cache:http://www.hlh r.gr/press/hlhr-neoDS-plan2010-2011.doc, date of access: 7.6.2010
144	2003 A.R. 2003	M. R.		State-Citizen Relations		2005	Special Scientific Personnel	PhD		YES								Assistant Professor at the Department of Business Administration of the University of the Aegean (subject: Theory of Law and social responsibility of businesses) G.G. vol. NPDD, no 199, 17.8.2005)		

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145	2003 A.R. 2003	C. S.	State-Citizen Relations			2008	Special Scientific Personnel	PhD		YES									Lecturer at the Department of Informatics with Applications in Biomedicine of the University of Central Greece (subject: Broad Band Wireless Networks) G.G. vol. C, no 1161, 29.12.2008	
146	2003 A.R. 2003	C. F.	State-Citizen Relations				Special Scientific Personnel	Postgraduate Degree		YES										
147	2003 A.R. 2003	K. L.	State-Citizen Relations	Health and Social Welfare/2004			Special Scientific Personnel	Postgraduate Degree		YES										
148	2005 A.R. 2005	T. V.	State-Citizen Relations				Special Scientific Personnel	Postgraduate Degree		YES										
149	2005 A.R. 2005	K. Z.	State-Citizen Relations				Special Scientific Personnel	Postgraduate Degree		YES										
150	1998 A.R. 1998	D. A.	State-Citizen Relations				Auxiliary Scientific Personnel	University Degree/Postgraduate Degree(2002)		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					

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151	1998 A.R. 1998	K. A.		State-Citizen Relations			Auxiliary Scientific Personnel	University Degree/Postgraduate Degree(2001)		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)				Decision (3680/21.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
152	1998 A.R. 1998	M. K.		State-Citizen Relations			Auxiliary Scientific Personnel	University Degree/Postgraduate Degree(2001)		YES					Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)					
153	1998 A.R. 1998	M. K.		State-Citizen Relations		2000	Auxiliary Scientific Personnel	Postgraduate Degree		YES									Appointment at the Ministry of Economics as U.E. Tax Officer (G.G. vol. C, no 153, 30.5.2000)	
154	2006 A.R. 2006	M. K.		State-Citizen Relations			Special Scientific Personnel	Postgraduate Degree		YES		Ministry of National Economy and Finance	Ministry of National Economy and Finance							

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
155	1998 A.R.	1998	P. K.	State-Citizen Relations			2000 Auxiliary Scientific Personnel	University Degree	YES		YES	Ministry of National Economy and Finance	Ministry of National Economy and Finance							
156	1998 A.R.	1998	M. M.	State-Citizen Relations			2002 Auxiliary Scientific Personnel	Postgraduate Degree		YES								Appointment at the Regulatory Authority for Energy (RAE) Source: The Official Website of RAE, available at: http://www.rae.gr/site/categories_new/about_rae/organization/secretary.asp , date of access: 23.3.2011		
157	1998 A.R.	1998	S. S.	State-Citizen Relations			Auxiliary Scientific Personnel	Postgraduate Degree		YES						Special Scientific Personnel/2003				
158	1999 A.R.	1998	C. A.	State-Citizen Relations			Auxiliary Scientific Personnel	University Degree		YES						Special Scientific Personnel (G.G. vol. B., no1394, 14.9.2006)				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
159	2001 A.R. 2001	N. D.		State-Citizen Relations			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel/2003	Secondment at the Office of the Inspector General of Public Administration 2004-2009, Annual Reports of the Inspector General of Public Administration, available at: http://www.gedd.gov/article_data/Linked_files/20/EkthesGEDD2004.pdf , http://www.gedd.gov/article_data/Linked_files/21/EkthesGEDD2005.pdf , date of access: 24.3.2011			Decision (16763/29.12.2010) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gov/ekdda/ViewInstr.php , date of access: 24.3.2011)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
159			N. D.													http://www.gedd.gr/article_data/Linked_files/22/EktheshGEDD2006.pdf , http://www.gedd.gr/article_data/Linked_files/49/EktheshGEDD2007.pdf , http://www.gedd.gr/article_data/Linked_files/68/EktheshGEDD2008final.pdf , http://www.gedd.gr/article_data/Linked_files/79/Ekthesh2009GEDDfinal.pdf , date of access: 1.2.2011				
160	2003 A.R. 2003	Vassilis Anastassopoulos	State-Citizen Relations	Human Rights/2007			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
161	2003 A.R. 2003	D. V.	State-Citizen Relations	Human Rights/2006			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
162	2003 A.R. 2003	P. V.	State-Citizen Relations				Auxiliary Scientific Personnel	University Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment from another civil service posts	Secondment of the secondment	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
163	2003 A.R. 2003	I. D.		State-Citizen Relations			2005 Auxiliary Scientific Personnel	Postgraduate Degree/ PhD 2005 Source: The Official Website of the Hellenic Centre for Marine Research, available at: http://www.hcmr.gr/listview3_el.php?id=1064 , date of access: 23.3.2011		YES								Researcher of Grade C at the Scientific Hellenic Centre for Marine Research, (G.G. vol. C., no 1047, 14.12.2007) Academic Year: (participation at <u>2007-2008</u> : European and Adjunct Professor at the University of Ioannina, Source: <u>2003-2007</u> : The Official Website of the Hellenic Centre for Marine Research, available at: http://www.hcmr.gr/listview3_el.php?id=1064 , date of access: 23.3.2011	<u>2000-2003</u> : Collaborator at the National Centre for Marine Research (participation at National Research Programmes)	
164	2003 A.R. 2003	A. K.		State-Citizen Relations	Quality of Life/2007		Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
165	2003 A.R. 2003	K. M.		State-Citizen Relations			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
166	2003 A.R. 2003	E. B.		State-Citizen Relations			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
167	2003 A.R. 2003	O. T.		Children's Rights		2007	Special Scientific Personnel	PhD		YES								Lecturer at the Department of Psychology of the University of Crete (subject: Forensic Psychology) G.G. vol. C, no 230, 11.4.2007		
168	2003 A.R. 2003	N. B.		Children's Rights			Special Scientific Personnel	Postgraduate Degree		YES									Decision (717/Φ233.02/25.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
169	2003 A.R. 2003	M. B.		Children's Rights			Special Scientific Personnel	Postgraduate Degree		YES										
170	2003 A.R. 2003	S.-L... S		Children's Rights			Special Scientific Personnel	Postgraduate Degree		YES										

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
171	2003 A.R. 2003		M. T.	Children's Rights			Special Scientific Personnel	Postgraduate Degree		YES										
172	2005 A.R. 2005		A. M.	Children's Rights			Special Scientific Personnel	PhD		YES										Decision (1464 Φ233.02/15.2.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
173	2006 A.R. 2006		A. B.	Children's Rights		2010?	Special Scientific Personnel	Postgraduate Degree		YES			Department of Foreign Languages, Translation and Interpretation of the Ionian University	Ministry of National Education and Religious Affairs						
174	2003 A.R. 2003		M. K.	Children's Rights	Health and Social Welfare/2004		Auxiliary Scientific Personnel	Postgraduate Degree		YES						Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)				

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
175	2003 A.R. 2003		S. P.	Children's Rights			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					
176	2003 A.R. 2003		S. P.	Children's Rights			Auxiliary Scientific Personnel	Postgraduate Degree/(PhD 2004)		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)				Decision (16485/31.12.2010) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
177	2003 A.R. 2003	A. R.	Children's Rights				Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)				Decision (250 Φ233.02/14.1.2011) for the assignment Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)	
178	2003 A.R. 2003	A. S.	Children's Rights			2007	Auxiliary Scientific Personnel	Postgraduate Degree		YES								Judge at the Council of State (G.G. vol. C, no 852, 26.10.2007)		

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
179	2001 A.R. 2001		D. C.	Stability Pact for Human Southeast Europe - Council of Europe-Bureau of the Council of Europe Commissioner for Human Rights EUNOMIA Project			Auxiliary Scientific Personnel	Postgraduate Degree		YES					Special Scientific Personnel (G.G. vol. B., no 371, 16.3.2007)					NGOs Member of the Research Centre for Minority Groups (KEMO) Source: Official Website of KEMO, available at: http://www.kemo.gr/index.php?sec=members , date of access: 2.5.2010
180	2003 A.R. 2003		M. K.	State-Citizen Relations			Special Scientific Personnel	Postgraduate Degree		YES										Decision (1464 Φ233.02/15.2.2011) for the assignment of Courses at the National Centre of Public Administration. Source: The Official Website of the National Centre of Public Administration, available at: http://www.ekdd.gr/ekdda/ViewInstr.php , date of access: 24.3.2011)
181	2006 A.R. 2006		E. T.	Quality of Life			Special Scientific Personnel	University Degree	YES		YES	Region of Attica	Ministry of the Interior							

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
182	2006 A.R. 2006		A. A.	State-Citizen Relations/Health and Social Welfare 2010			Special Scientific Personnel	PhD	YES		YES		Ministry of the Interior							
183			C. S.	Human Rights			Special Scientific Personnel	University Degree			YES		Region of Attica	Ministry of the Interior						
184			I. B.	Human Rights			Special Scientific Personnel	?		YES							Information and Communication Officer at the Directorate-General for Regional Policy of the European Commission, Source: European Policy Summit Organised by the Friends of Europe (December 4, 2007), List of Participants, http://www.kas.de/wf/doc/kas_12561-1522-2-30.pdf?071205173618 , date of access: 24.3.2011			
185			O. L.	Human Rights			Special Scientific Personnel	Postgraduate Degree		YES										
186			K. S.	State-Citizens Relations			Special Scientific Personnel	Postgraduate Degree		YES										

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
187			E. P.	Quality of Life			Special Scientific Personnel	?		?							Special Collaborator at the Political Bureau of the Minister of the Interior, Public Administration and Decentralisation (G.G. vol. C, no 121, 28.4.2004)			
188			C. A.	Gender Equality			Special Scientific Personnel	?		?										Alternate Member of the Committee for the Evaluation of Proposals for the 2009 Annual Programme of our country within the framework of the European Integration Fund. Action 09/2.1 entitled: "Elaboration of a study on the issue: Women's Migration in Greece" (G.G. vol. YODD, no 337, 18.10.2010)
189			L. D.	Health and Social Welfare			Special Scientific Personnel	?			YES		Ministry of Labour and Social Security							

S.N.	YEAR	Government Gazette: Vol, No of issue- Date / Annual Report A.R.	Initials of the Name- Surname	Department	Transfer to another Department	Retirement	Category of Scientific Personnel	Level of Education	Graduate of the National School of Public Administration	New appointment	Secondment from another civil service posts	Implementation of the secondment	Service	Supervising Ministry	In Service Transfers/New Category	Transfers, Secondments from the Ombudsman to the public sector	Previous positions in the public sector	New Appointments in the Public Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society/Trade Unionism
190	2002 A.R. 2002		M. G.	Human Rights/Quality of Life 2003			Special Scientific Personnel	University Degree	YES		YES		Ministry of Culture							

APPENDIX 4-Table 1

Hellenic Authority for Communication, Security, and Privacy
Database on the directly hired Administrative Personnel

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Level of Education	Working Status	G e r a d	Category- Specialty Branch	Revocation/Denial of the appointment	Resignation	Replacement	New Appointment/ Transfer	In Service Transfer
1	2004	C233, 6.9.2004	A. K.	Graduate of Higher Technological Educational Institutions	Regular	D	T.E. Technological Applications					
2	2004	C233, 6.9.2004	A. V.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Technological Applications					
3	2004	C233, 6.9.2004	I. Y.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Technological Applications					
4	2004	C233, 6.9.2004	S. T.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Technological Applications	YES			Ministry of National Defence- General Army Staff (G.G. vol. C, no 249, 22.9.2004)	
5	2004	C233, 6.9.2004	M. S.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Technological Applications					
6	2004	C233, 6.9.2005	A. C.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Administration- Accounting					
7	2004	C344, 31.12.2004	G. A. (Appointed to the vacant post of AP4)	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Technological Applications					
8	2005	C78, 23.3.2005	P. O.	Secondary Education	Regular	D	S.E. ?					
9	2005	C78, 23.3.2005	K. R.	Secondary Education	Regular	D	S.E. ?					
10	2005	C78, 23.3.2005	D. K.	Secondary Education	Regular	D	S.E. ?		Submission of resignation (G.G. vol. C, no 294, 14.9.2006)		Teacher in Secondary Education (G.G. vol. C, no 294, 14.9.2006)	
11	2005	C78, 23.3.2005	C. P.	Secondary Education	Regular	D	S.E. ?					
12	2005	C78, 23.3.2005	A. F.	Secondary Education	Regular	D	S.E. ?					
13	2005	C78, 23.3.2005	A. K.	Secondary Education	Regular	?	S.E. Driver	YES		YES	Ministry of Environment, Planning and Public Works, (G.G. vol. C, no 516, 29.12.2006)	
14	2005	C78, 23.3.2005	M. M.	Compulsory Education	Regular	E	C.E. Auxiliary Staff		Submission of resignation (G.G. vol. C, no 335, 21.12.2005)	YES	Piraeus Administrative Court of First Instance (G.G. vol. C, no 310, 21.11.2005)	

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of the Name-Surname	Level of Education	Working Status	G r a d e	Category- Specialty Branch	Revocation/Denial of the appointment	Resignation	Replacement	New Appointment/ Transfer	In Service Transfer
15	2005	C118, 6.5.2005	K. G. (Appointed to the vacant post of AP13)	Secondary Education	Regular	?	S.E. Driver					
16	2005	C122, 18.5.2005	V. P.	University Degree	Regular	D	U.E. Administration-Finance					
17	2005	C122, 18.5.2005	E. A.	University Degree	Regular	D	U.E. Administration-Finance					
18	2005	C172, 12.7.2005	A. K.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Administration-Accounting					
19	2005	C172, 12.7.2005	E. A.	Graduate of Higher Technological Educational Institution	Regular	D	T.E. Administration-Accounting					
20	2006	C2, 5.1.2006	V. A. Appointed to the vacant post of AP14	Compulsory Education	Regular	E	C.E. Auxiliary Staff					
21	2008	C413, 7.5.2008	E. K.	Secondary Education	Regular	D	S.E. ?		Submission of resignation: (G.G. vol. C, no 67, 8.2.2011)		Ministry of Economy, Competitiveness, and Marine (G.G. vol. C, 1184, 13.12.2010)	
22	2008	C413, 7.5.2008	I. D.	Secondary Education	Regular	D	S.E. ?	YES		YES	Deposits and Loans Fund (G.G. vol. C, no 253, 6.4.2009)	
23	2008	C614, 3.7.2008	S. B. (Appointed to the vacant post of AP22)	Secondary Education	Regular	D	S.E. ?					
24	2005	C247, 12.9.2006	D. C.	Secondary Education	On secondment-Renewal of secondment until 2007		S.E. Driver					

APPENDIX 4-Table 2

Hellenic Authority for Communication Security and Privacy Database on the directly hired Scientific Personnel

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti- rement	Denial/Revoca- tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo- tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
1	2004	C233, 6.9.2004	S. P.	Technological and Management Infrastructures for Security Accreditation	Private law employment contract of indefinite time	PhD , Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: http://phdtheses.ekt.gr/ea/dd/handle/10442/11766 , date of access: 18.3.2011		YES	SP13 was appointed to the vacant post (G. G. vol. C, no 344, 31.12.2004)		Member of the Scientific Staff of the Hellenic Telecommunicati- ons and Post Commission 2001- 2008, Source: The Official Website of the Technological Educational Institution of the Ionian Islands, CV, available at: de.teiion.gr/el/plir/ofories/arxeia/doc_download/23---.html/ , date of access: 18.3.2011	Assistant Professor at the Technological Educational Institution of the Ionian Islands (G.G. vol. C, no 146, 25.2.2008)		
2	2004	C233, 6.9.2004	I. M.	Security of Information Systems	Private law employment contract of indefinite time	?		YES	SP15 was appointed to the vacant post (G.G. C152, 24.6.2005)					
3	2004	C233, 6.9.2004	P. K.	Implementation and Services Security	Private law employment contract of indefinite time	PhD , Source: The Official Website of the Department of Informatics, University of Piraeus, http://www.cs.unipi.gr/pkotzani/index.php/19-main/24-pkotzanikolaou , date of access: 18.3.2011	Resignation (G.G. vol. C, no 612, 16.7.2010)					Lecturer at the Department of Informatics, University of Piraeus (G.G. vol. C, no 466, 7.6.2010)		

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
4	2004	C233, 6.9.2004	V. S.	Implementation and Services Security	Private law employment contract of indefinite time	PhD , Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/13287">http://phdtheses.ekt.gr/ea dd/handle/10442/13287 , date of access: 18.3.2011							Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010)	
5	2004	C233, 6.9.2004	Y.B.	Networks Security with an emphasis on Internet	Private law employment contract of indefinite time	PhD , Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/11772">http://phdtheses.ekt.gr/ea dd/handle/10442/11772 , date of access: 18.3.2012	Resignation (G.G. vol. C, no 22, 16.1.2008)		HD5 was appointed to the vacant post (G.G. vol. C, no 19, 15.1.2008)	Head of the Directorate for the Infrastructures Assurance, Infrastructures, Services Secrecy, Internet Implementations		Post in the Private Sector: Director of Access Backbone Networks, Ontelecoms, a Greek Telecommunicati ons Company, Source: Mailman, available at: <a href="https://mailman2.
grnet.gr/pipermail
/gr6/2008-
December/00002
0.html">https://mailman2. grnet.gr/pipermail /gr6/2008- December/00002 0.html , date of access: 18.3.2011		

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
6	2004	C233, 6.9.2004	E. N.	Networks Security with an emphasis on Internet	Private law employment contract of indefinite time	PhD, Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/16504">http://phdtheses.ekt.gr/ea dd/handle/10442/16504 , date of access: 18.3.2013								
7	2004	C233, 6.9.2004	S.M.	Networks Security with an emphasis on Internet	Private law employment contract of indefinite time	PhD, Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/16542">http://phdtheses.ekt.gr/ea dd/handle/10442/16542 , date of access: 18.3.2014								
8	2004	C233, 6.9.2004	P. T.	Systems Security for information transmission	Private law employment contract of indefinite time	PhD, Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/12700">http://phdtheses.ekt.gr/ea dd/handle/10442/12700 , date of access: 18.3.2015								
9	2004	C233, 6.9.2004	P.B.	Systems Security for information transmission	Private law employment contract of indefinite time	PhD, Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/13314">http://phdtheses.ekt.gr/ea dd/handle/10442/13314 , date of access: 18.3.2016								

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
10	2004	C233, 6.9.2004	A. P.	Systems Security for information transmission	Private law employment contract of indefinite time	PhD , Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/13316">http://phdtheses.ekt.gr/ea dd/handle/10442/13316 , and <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/13301d">http://phdtheses.ekt.gr/ea dd/handle/10442/13301d date of access: 18.3.2017	Resignation (G.G. vol. C, no 475, 21.5.2008)					Lecturer at the Department of Information Transmission Systems and Material Technology, National Technical University of Athens (G.G. vol. C, no 358, 18.4.2008)		
11	2004	C233, 6.9.2004	A. M.	Law	Private law employment contract of indefinite time	PhD , Source: The Official Website of the European Network and Information Security Agency (ENISA), available at: <a href="http://www.enisa.europa.
eu/about-enisa/structure-
organization/executive-
director/my-
team/cv_mitrakas.pdf">http://www.enisa.europa. eu/about-enisa/structure- organization/executive- director/my- team/cv_mitrakas.pdf , date of access: 18.3.2011		YES	SP14 was appointed to the vacant post (G. G. vol. C, no 344, 31.12.2004)			Head of Administration at the European Network and Information Security Agency, Source: The Official Website of the European Network and Information Security Agency (ENISA), available at: <a href="http://www.enisa.
europa.eu/about-
enisa/structure-
organization/exec
utive-director/my-
team/cv_mitrakas.
pdf">http://www.enisa. europa.eu/about- enisa/structure- organization/exec utive-director/my- team/cv_mitrakas. pdf , date of access: 18.3.2011		

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
12	2004	C233, 6.9.2004	F. T.	Law	Private law employment contract of indefinite time	?							Member of the Special Legislative Drafting Committee, representing the Hellenic Authority for Communication, Security and Privacy on the study and elaboration for the transposition in national legislation of the Directive 2006/24/EC of the European Parliament and the Council of March 15, 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (G.G. vol. YODD, no 42, 4.2.2008)	
13	2004	C344, 31.12.2004	V. D. Appointed to the vacant post of SP1	Technological and Management Infrastructures for Security Accreditation	Private law employment contract of indefinite time	?	Resignation (G.G. vol. C, no 282, 26.10.2005)		YES					
14	2004	C344, 31.12.2004	M. K. Appointed to the vacant post of SP11	Law	Private law employment contract of indefinite time	?								
15	2005	C152, 24.6.2005	N. A. (Appointed to the vacant post of SP2)	Security of Information Systems	Private law employment contract of indefinite time	?								

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
16	2006	C21, 31.1.2006	G. B. (Appointed to the vacant post of SP13)	Technological and Management Infrastructures for Security Accreditation	Private law employment contract of indefinite time	PhD , Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: <a href="http://phdtheses.ekt.gr/ea
dd/handle/10442/13300">http://phdtheses.ekt.gr/ea dd/handle/10442/13300 date of access: 19.3.2015								
17	2007	C267, 29.6.2007	E. V.	International Collaborations and Public Relations	Private law employment contract of indefinite time	?								
18	2009	C500, 27.11.2009	C. Z.	Security of Telecommunicati ons Infrastructures, Systems, and Services	Private law employment contract of indefinite time	PhD , Source: The Official Website of George Mason University (USA), available at: <a href="http://ece.gmu.edu/semin
ars/seminars_2007_pdf/z
ouridaki.pdf">http://ece.gmu.edu/semin ars/seminars_2007_pdf/z ouridaki.pdf , date of access: 18.3.2011								

S.N.	YEAR	Vol, No of issue- Date/ Annual Report A.R.	Initials of the Name- Surname	Subject area	Working Status	Level of Education	Resignation/Reti rement	Denial/Revoca tion of the appointment	Replacement	In Service Transfers/New Category and/or Specialty/Promo tion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
19	2009	C500, 27.11.2009	P. K.	Security of Telecommunicati ons Infrastructures, Systems, and Services	Private law employment contract of indefinite time	Msc: 1989-1990, Cranfield University (UK), Source: Lindekin, available at: http://www.linkedin.com/pub/panagiotis-kanakaris/2/936/6b3 , date of access: 18.3.2011					2009-2010: Internal Auditor at ERGOSE, a subsidiary of the Greek Railways Organisation (public company) 1994-2007: Wind Hellas (private telecommunicatio ns company) 1993-1994: Alcatel (public company) 1992- 1993: Intracom (private software company) Source: Lindekin, available at: http://www.linkedin.com/pub/panagiotis-kanakaris/2/936/6b3 , date of access: 18.3.2011			
20	2009	C500, 27.11.2009	V. D.	Security of Information Systems, and Implementations	Private law employment contract of indefinite time	?		YES		SP21 was appointed to the vacant post (G. G. vol. C, no 375, 12.5.2010)				
21	2010	C375, 12.5.2010	I. M.	Security of Information Systems, and Implementations	Private law employment contract of indefinite time	?								

APPENDIX 4-Table 3

Hellenic Authority for Communication, Security, and Privacy

Database on the directly hired Heads of the Directorates and the Department of International Collaborations and Public Relations

S.N.	YEAR	Government Gazette, Vol, No of issue-Date/Annual Report A.R.	Initials of the Name-Surname	Subject area	Working Status	Level of Education	Resignation/Retirement	Denial/Revocation of the appointment	Substitution	In Service Transfers/New Category and/or Specialty/Promotion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
1	2004	C233, 6.9.2004	Y. B.	Networks Security with an emphasis on Internet	Private law employment contract of indefinite time	PhD, Source: The Official Website of the National Documentation Centre, Archive of PhD Theses, available at: http://phdtheses.ekt.gr/eadd/handle/10442/11772 , date of access: 18.3.2012	Resignation (G.G. vol. C, no 22, 16.1.2008)		HD5 was appointed to the vacant post (G.G. vol. C, no 19, 15.1.2008)	Head of the Directorate for the Infrastructures Assurance, Infrastructures, Services Secrecy, Internet Implementations		Post in the Private Sector: Director of Access Backbone Networks, Ontelecoms, a Greek Telecommunications Company, Source: Mailman, available at: https://mailman2.grnet.gr/pipermail/gr6/2008-December/000020.html , date of access: 18.3.2011		
2	2007	C333, 21.5.2007	Y. B.	Head of the Directorate for the Assurance of Infrastructure and Secrecy of Telecommunications Services	Private law employment contract of definite time	?								
3	2007	C333, 21.5.2007	D. V.	Head of the Directorate for the Assurance of the Secrecy of Mailing Services	Private law employment contract of definite time	?	Submission of resignation (G.G. vol. YODD, no 516, 4.12.2007)				Lawyer			
4	2007	C333, 21.5.2007	A. L.	Head of the Independent Department of International Collaborations and Public Relations	Private law employment contract of definite time	?								

S.N.	YEAR	Government Gazette, Vol, No of issue-Date/ Annual Report A.R.	Initials of the Name-Surname	Subject area	Working Status	Level of Education	Resignation/Retirement	Denial/Revocation of the appointment	Substitution	In Service Transfers/New Category and/or Specialty/Promotion	Previous positions in the public sector	New Appointments in the Public - Private Sector	Parallel Occupation (Participation in Committees etc)	Party affiliation/Civil Society
5	2008	C19/15.1.2008	I. P.	Head of the Directorate for the Infrastructures Assurance, Internet Implementations	Private law employment contract of definite time	Msc: Source: Competition No 1/386M/2007, Candidate for the post of regular employee at the Prefectural Self-administration of Athens-Piraeus, available at: http://ypemomarhiagr/.../KATASTASH_YPOPSIFIWN-PE%20PLHROFORIKIS.rtf date of access: 18.3.2011								
6	2010	C639, 22.7.2010	A. M.	Head of the Directorate for the Assurance of the Secrecy of Mailing Services	Private law employment contract of definite time	?								

APPENDIX 4-Table 4

Hellenic Authority for Communication, Security, and Privacy Database on the Legal Service Personnel

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of Name-Surname	Level of Education	Working Status	Category-Specialty Branch	Denial of the appointment	Resignation	New Appointment/Transfer	Previous position in the public Sector	Member of Committees in the public sector
1	2005	C172, 12.7.2005	I. T.	PhD Source: G.G. vol. B, no 797, 27.5.2004		Legal Adviser				Adviser at the Ministry of State (G.G. vol. B, no 797, 27.5.2004) Special Collaborator of the Minister of National Education and Religious Affairs, (G.G. vol. B, no 358, 13.4.1999) Member of the Committee of Legislative Initiative constituted by the Deputy Minister of Foreign Affairs (G.G. vol. B, no 87, 11.2.1997) Lawyer of the Organizing Committee of the Athens Olympics 2004, Source: Source: Newspaper Eleftherotypia, 24.9.2004, available at: http://archive.enet.gr/online/online_text/c=115,dt=24.09.2004,id=87203364 , date of access: 18.3.2011	Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010)
2	2005	C277, 20.10.2005	G. T.	L3 was appointed to the vacant post	MSc , Source: Journal: Penal Justice, available at: https://www.nbonline.gr/images/credits/6.pdf , date of access: 18.3.2011	Under contract mandate remuneration	Lawyer	Submission of resignation: (G.G. vol. C, no 512, 25.7.2007)			Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications networks and amending Directive 2002/58/EC (Government Gazette, vol. YODD', no 72, 1.3.2010) Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the amendment of the provisions of the Code of Laws on Drugs ratified by the law 3459/2006 (Government Gazette, vol. YODD', no 17..3.2010)

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of Name-Surname	Level of Education	Working Status	Category-Specialty Branch	Denial of the appointment	Resignation	New Appointment/ Transfer	Previous position in the public Sector	Member of Committees in the public sector
2			G. T								<p>Member of the special legislative drafting committee (Ministry of Justice, Transparency and Human Rights) for the final elaboration of the draft law on the transposition of the PNR (Passenger Name Record) Agreements of the European Union and the Governments of U.S.A., Canada and Australia on the processing and transfer of passengers' data (Government Gazette, vol. YODD', no 165, 7.5.2010)</p> <p>Alternate Member of the Special Legislative Drafting Committee on the study and elaboration -for the transposition in national legislation- of the Directive 2006/24/EC of the European Parliament and the Council of March 15, 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (G.G. vol. YODD, no 42, 4.2.2008)</p> <p>Member of the Special Legislative Drafting Committee for the strengthening the institutional framework on the functioning of the Hellenic Authority for Communication, Security and Privacy (ADAE) and the amendment of the law 3115/2003 (Government Gazette, vol. 107, 12.3.2009)</p>

S.N.	YEAR	Government Gazette, Vol, No of issue-Date	Initials of Name-Surname	Level of Education	Working Status	Category-Specialty Branch	Denial of the appointment	Resignation	New Appointment/Transfer	Previous position in the public Sector	Member of Committees in the public sector
3	2008	C413, 7.5.2008	A. A.	Postgraduate Degree, DEA, Source: The Official Website of the Law Office Oikonomou and Partners, http://www.elo.gr/members_gr.php , date of access: 18.3.2011	Under contract mandate remuneration		Lawyer (Appellate Attorney)				
4	2009	C233, 30.3.2009	A. K.	?	Under contract mandate remuneration		Lawyer				

APPENDIX 5

The Scientific Personnel's Involvement in Public Life Index

Career paths	Scientific Personnel's match with career paths by authority			
<i>A. Political involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
Minister				
Member of the European Parliament				
Parliamentary candidate		21(2)	84	
Elected in local government elections			84(2)	
Governmental Posts	4(2), 11(2)	16	9(2), 11(4), 14(2), 29, 129, 187, 84	
On secondment to governmental posts		12	2, 8, 37, 53, 68, 73, 80, 87, 103	
Party affiliation		21	84, 86, 98, 129	
Trade unionism		23	11, 26, 79, 84, 129	
<i>B. Institutional involvement</i>				
Previous permanent position in the Public Sector	2, 5, 6, 8, 10	10,	57, 79	1
On secondment from the authority to the Public Sector		7	122, 126, 161	
On secondment from the Public Sector to the authority			3, 4, 5, 6, 7, 12, 16, 32, 33, 34, 35, 38, 44, 46, 47, 60, 77, 79, 81, 83, 92, 93, 95, 120, 123, 124, 125, 127, 128, 129, 134, 135, 156, 157, 175, 185, 191	

Career paths	Scientific Personnel's match with career paths by authority			
<i>B. Institutional involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
New secondment after the termination of the secondment to the authority			118, 122, 127	
Position in the Public Sector after denial of appointment or resignation from the position	9, 13,14,15	17, 24, 29	41, 62, 72, 76, 84, 87, 102, 105, 117, 124, 131, 132, 158, 180,	
Position in the Public Sector under contract (public services, organizations, companies)			86(2), 113	19(2)
Positions in the European Union (European Commission, Agencies of the European Union) after their denial of appointment or resignation from the authorities		2		11
Seconded trainees, Seconded National Experts at the European Commission or Agencies of the European Union, international organisations		4, 7, 18, 36	22	
Member of the staff of the European Union (Commission)			184	
Positions in international organizations agencies in Greece after resignation			21	
Member (alternate member) of Legislative Drafting Committees* (*ad hoc legislative drafting committees, ex officio members of legislative drafting committees)	4	11(2), 13, 20, 32, 39	8, 11(2), 14, 43	4, 12
President of Working Groups/Monitoring Committees/Advisory Committees/Project Management Groups constituted by Ministries	11(2)			
Member/(ex officio members) of Working Groups/Committees/Monitoring Committees/Advisory Committees/Scientific Councils/Project Management Groups constituted by Ministries or other legal entities of public law	12		8(3), 11, 14(4), 17, 19, 28, 56, 78, 84(2), 128	
Ex officio member of the National Commission for Human Rights representing certain independent authorities, or Ministries			9(2), 14	
Legal Adviser, Legal Collaborator, Adviser in the Public Sector			84(2)	
<i>C. Financial Involvement</i>				
Member of Procurement Committees			54, 84	
<i>D. Institutional and Financial Involvement</i>				
President/Vice-President of another Independent Authority	4			
Member of the management board of another Independent Authority			36, 53	

Career paths	Scientific Personnel's match with career paths by authority			
<i>D. Institutional-Financial Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>Hellenic Data Protection Authority</i>	<i>The Greek Ombudsman</i>	<i>Hellenic Authority for Communication Security and Privacy</i>
Member of the management board of the same Independent Authority			9, 11	
President/Vice-President of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry			14	
Member (alternate member) of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry, member of the management board of the Cultural foundation of the Bank of Greece	12	21	11(2), 78	
On secondment President of a body of the public sector			29	
<i>E. Scientific Involvement</i>				
Experts representing Greece in international organizations				
President of Scientific Councils, President/Director of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research character, Director/President of think tanks,			84	
Member of Scientific Councils, Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research- character, member of think tanks		21(2)		
Members of the teaching staff of Greek Universities and Technological Educational Foundations (tenured positions) after their resignation from the authorities	7	14	1, 9, 35, 98, 119, 131, 134, 135, 137, 144, 145, 167	1, 3, 10,
Members of the teaching staff of Foreign Universities (tenured positions) after their resignation from the authorities			14, 27, 92	

Career paths	Scientific Personnel's match with career paths by authority			
<i>E. Scientific Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>C. Financial Involvement</i>	<i>Supreme Council for the Selection of Personnel</i>	<i>C. Financial Involvement</i>
Adjunct Professor (members of the teaching staff of Greek Universities and Technological Educational Foundations under contract)	11(7), 12(2)	1, 16, 21, 24(3), 25, 42(2)	38, 42, 54(6), 80, 84, 95, 96, 98, 103(3)	
Member of the teaching staff of academies of the armed forces after their resignation/denial of appointment from the authorities (tenured posititons)		25		
Members of the teaching staff of the National School of Public Administration, National Centre of Public Administration, Police Academy and academies of the armed forces, and other public educational centres (under contract)	4, 11	1, 5, 21	55(2), 86, 105	
Members of the teaching staff of the National Centre of Public Administration (under contract)	2, 4, 7	1, 5	13, 19, 42, 45, 50, 53, 54, 58, 93, 98, 101, 105, 112, 120, 124, 128, 136, 151, 159, 168, 172, 176, 177, 180 165(2)	
Research Fellow/Collaborator in universities, research centres, post doctoral researcher, research (under contract)	7(3)	25	163	
Researchers after their resignation/denial of appointment from the authorities (tenured posititons)			79	
Radio producer (under contract)				
<i>F. Civil Society</i>				
Member of NGOs	4, 7	4(2)	9, 10, 11, 13, 28, 41(2), 84(2), 105, 129, 131(2), 135, 138(2), 143, 179	

APPENDIX 6

The Scientific Personnel's Time-dimension Involvement in Public Life Index												
Type of involvement	Supreme Council for the Selection of Personnel			Hellenic Data Protection Authority			The Greek Ombudsman			Hellenic Authority for Communication, Security and Privacy		
	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
A. Political Involvement												
Parliamentary candidate				21			21			84		
Elected in local government elections (mayor, municipal counselor, prefect, prefectural counselor, regional commissioner, regional counselor)										84(2)		
Governmental Posts	4(2), 11(2)					16	9, 11, 14(2), 84, 187		29	129		
On secondment to governmental posts						12		2, 8, 11, 37, 53, 68, 73, 80, 87, 103				
B. Institutional Involvement												
Previous permanent position in the Public Sector	2, 5, 6, 8,10			10			57, 79				1	
On secondment from the authority to the Public Sector						7						122, 126, 161

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
B. Institutional Involvement												
On secondment from the Public Sector to the authority								3, 4, 5, 6, 7, 12, 16, 32, 33, 34, 35, 38, 44, 46, 47, 60, 77, 79, 81, 83, 92, 93, 95, 120, 123, 124, 125, 127, 128, 129, 134, 135, 156, 157, 175, 185, 191				
New secondment after the termination of the secondment to the authority									119, 122, 127			
Position in the Public Sector after denial of appointment or resignation from the position			9, 13, 14, 15			17, 24, 29			41, 62, 72, 76, 84, 87, 102, 105, 117, 124, 131, 132, 158, 180,			
Position in the Public Sector under contract (public services, organizations, companies)							113		86(2)	19(2)		
Positions in the European Union (European Commission, Agencies of the European Union) after their denial of appointment or resignation from the authorities)							2					11

	<i>Supreme Council for the Selection of Personnel</i>				<i>Hellenic Data Protection Authority</i>		<i>The Greek Ombudsman</i>		<i>Hellenic Authority for Communication, Security and Privacy</i>			
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
B. Institutional Involvement												
Seconded trainees, Seconded National Experts at the European Commission or Agencies of the European Union, international organisations					4, 7, 18, 36				22			
Member of the staff of the European Union (Commission) Experts of international organizations agencies in Greece, (Members of Boards in Intergovernmental organizations) after resignation							184			21		
Member (alternate member) of Legislative Drafting Committees* (*ad hoc legislative drafting committees, ex officio members of legislative drafting committees)		4			11(2), 13, 20, 32, 39			14 8, 11(2), 43, 57			4, 12	

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
B. Institutional Involvement												
Member/(ex officio members) of Working Groups/Committees/Monitoring Committees/Advisory Committees/Scientific Councils/Project Management Groups constituted by Ministries or other legal entities of public law,	11(2), 12						14(4)	8(3), 11, 14(4), 17, 19, 28, 78, 128			84(2)	
Ex officio member of the National Commission for Human Rights representing independent authorities or certain Ministries								14 9(2)				

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
B. Institutional Involvement												
Member of the Central Examination Committee of the National School of Public Administration or other examination committees (e.g. the National School of Judicial Officers), member of committees for the selection of personnel in the public sector, advisor of studies at the National Centre for Public Administration												
Legal Adviser, Legal Collaborator, Adviser in the Public Sector										84(2)		
C. Financial Involvement												
Member of Procurement Committees										55	84	
D. Institutional and Financial Involvement												
President/Vice-President of another Independent Authority		4										
Member of another Independent Authority										36	53	

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
D. Institutional and Financial Involvement												
Member of the same Independent Authority								9, 11		9,11		
President/Vice-President of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry							14					
Member (alternate member) of the Management Boards of Public Utilities, Public Enterprises and Organisations under the legal status of public anonymous companies, legal entities of public law or entities of private law under the supervision of a Ministry,		12				21		78, 11(2)				

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
D. Institutional and Financial Involvement	29											
On secondment President of a body of the public sector												
E. Scientific Involvement	84											
President of Scientific Councils, President/Director of Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research character,												
Member of Scientific Councils, Research Centres/Institutes, legal entities of public law or entities of private law supervised by a Ministry with a scientific-research- character, member of	21(2)											
Members of the teaching staff of Greek Universities and Technological Educational Foundations (tenured positions) after their resignation/denial of appointment from the authorities	7 14 1, 9, 35, 98, 119, 133, 136, 137, 139, 146, 147, 169 1, 3, 10											

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
E. Scientific Involvement												
Members of the teaching staff of Foreign Universities (tenured positions) after their resignation/denial of appointment from the authorities									14, 27, 92			
Adjunct Professor (members of the teaching staff of Greek and foreign Universities and Technological Educational Foundations under contract)	12	11(5), 12		24(3), 25, 42	1, 21, 42		16	38, 42, 54(6), 80, 84, 95, 96, 98	105(3)			
Member of the teaching staff of academies of the armed forces after their resignation/denial of appointment from the authorities (tenured posititons)							25					

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
E. Scientific Involvement												
Members of the teaching staff of the National School of Public Administration, National Centre of Public Administration, Police Academy and academies of the armed forces, and other public educational centres (under contract)	4		11		1, 5, 21			55(2), 86		105		
Members of the teaching staff of the National Centre of Public Administration (under contract)	2, 4			7		1, 5			55 13, 19, 42, 45, 50, 53, 54, 58, 93, 98, 101, 105, 112, 120, 124, 128, 136, 151, 159, 168, 172, 176, 177, 180			
Research Fellow/Collaborator in universities, research centres, post doctoral researcher, research (under contract)		7(3)					25	163(2)				

	<i>Supreme Council for the Selection of Personnel</i>			<i>Hellenic Data Protection Authority</i>			<i>The Greek Ombudsman</i>			<i>Hellenic Authority for Communication, Security and Privacy</i>		
Type of involvement	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the appointment	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment	Involvement before the mandate	Functional Accumulation while in service Suspension from duties (only secondment cases)	Involvement after revocation or denial of appointment
Radio producer (under contract)												

APPENDIX 7

Explanatory text on basic concepts in the Greek Public Administration

- a. the legal definition of the public sector,
- b. the working status of the employees in the public sector, and
- c. the mobility rules for civil servants (transfers, secondments, reclassifications)

The legal definition of the “public sector”

The Greek Constitution does not contain a precise definition for the concept of “public sector”. The term was first introduced in legislation with the law 1256/1982 regarding the scope of application of the multiple office-holding in the public sector. Another paradigm is that of article 14, par. 1 of the law 2190/1994, as amended, defining the scope of application of the recruitment system in the public sector. On the other hand, the version “broader public sector” is found in articles 14, subpar. 9, verse e, and 103 par. 7, and 8 of the Constitution of 2001. In general, according to the Scientific Report of Parliament on the draft law on the reformation of the recruitment system in the public sector¹⁰⁰⁶, the term “*is the special legal regime resulting from individual laws concerning limitations that are proper or relevant to the concept of the public service pertaining either to the recruitment or the service status of its personnel, or the acquisition and use of sources for the attainment of the public purpose they aspire*”. Indeed, since legislation does not offer a general definition of the term, and after having combined the relevant individual laws, the following bodies pertain to the public sector (Spyropoulos, 2009):

- Public services of the State;
- First and second-level local government agencies;
- Public law legal entities, with the exception of the Capital Market Commission, the Stock Exchange, and the Private Insurance Supervisory Committee;
- All kinds of state or public enterprises and organizations, and enterprises and organizations operating state concessions, as well as private law legal entities which have a public character and pursue objectives in the public interest;
- Banks belonging to the state, and
- All kinds of subsidiaries of public law legal entities, and public enterprises and organizations, with the exception of local government enterprises

b. The working status of the personnel in the public sector

According to the constitutional and ordinary legislator, the personnel employed in the civil service may be classified in the following categories with respect to the four internationally recognized systems of employment relationships, that is, with tenure, without tenure, career, and specific posts, or a combination of their individual features (Chrysanthakis, 2001):

¹⁰⁰⁶ Scientific Report of Parliament on the draft law on the reformation of the recruitment system in the public sector, (Law 3812/1999), dated December 14, 2009, available at: http://www.hellenicparliament.gr/UserFiles/7b24652e-78eb-4807-9d68-e9a5d4576eff/a-asep-epi_XPress_Hamster_temp.qxp.pdf, date of access: 23.6.2011.

i) *Permanent civil servants*, who are linked with a public law employment relationship, possess a position in the organisational chart, and enjoy the guarantee of permanent tenure (article 103, par. 2 and 4 of the Constitution). Moreover, their grades evolve in accordance with the career system. The public services of the State, first and second-level local government agencies, and public law legal entities are staffed with permanent civil servants. This category of personnel plays a central role in the organisational structure of the public administration, and, according to the jurisprudence of the Council of State (Decision 1603/1991), the Constitution, in principal, imposes the organization and staffing of public administration with permanent employees, and only exceptionally with non-tenured employees.

ii) *Civil servants on private law contract of indefinite time*, possessing positions in the organisational charts, whereas their working status is protected by almost similar legal guarantees with respect to those enjoyed by the permanent civil servants. This category may be further subdivided into three particular categories of civil servants on private law contracts of indefinite time. The first subcategory comprises the special scientific, auxiliary or technical personnel that cover permanent and durable needs which are supported by their expertise (article 103, par. 3, subpar. a of the Constitution). They equally possess positions in the organisational charts. However, depending on the will of the legislator, these positions may be filled by personnel hired on private law contracts of definite time, which may be renewed, pursuant to article 3, par. 1 of the Presidential Decree 410/1988 on the Code of personnel on private law contract¹⁰⁰⁷.

The second subcategory is constituted by former temporary employees whose time-limited contracts were converted to private law contracts of indefinite time through special legislative regulation. This was a widespread recruitment policy that co-existed, and, in parallel, circumvented the official recruitment system¹⁰⁰⁸. It should be noted that temporary employees and personnel with private contracts of indefinite time were further upgraded since they were awarded permanent tenure. As Spanou (1996) states commenting on the relevant policy: “*Both parties [PASOK and New Democracy] had taken advantage of the state resources for clientelistic purposes*”. This category of personnel possesses positions in the organisational charts which are constituted *ad hoc*, and thus will become vacant after their retirement. However, they possess no grades, and consequently cannot be promoted to the hierarchical positions of the civil service. In September 2009, the law 3801/2009 came into force, and finally regulated the issue¹⁰⁰⁹. The third subcategory comprises the personnel of the

¹⁰⁰⁷ The issue of hiring special scientific personnel on private law contract of definite time has raised controversy in legal theory over its constitutionality.

¹⁰⁰⁸ The presidential decree 164/2004 was the last legislative regulation that converted private law contracts of definite time to private law contracts of indefinite time. It should also be noted that this legislative settlement raised intense controversy since article 103, par. 8 of the revised constitution of 2001 provided that “*Conversion by law of the employees under the first section to permanent civil servants or conversion by law of their employment contracts into contracts of indefinite time is prohibited. The prohibitions of the present paragraph also apply to those employed on the basis of services for the performance of a specific task*”.

¹⁰⁰⁹ For many years, the Union of Civil Servants (ADEDY) was unofficially reluctant to accept the legislative regulation of the issue since their members, that is, the permanent civil servants felt that they would be threatened in the battle for promotions by the thousands of employees under private law contracts of indefinite time since it was publicly known that many of them were better qualified. Interestingly enough, the relevant law was discussed and voted one month before the national elections of October 7, 2009.

private law legal entities of the public sector, public organizations and enterprises included, who are equally employed with private law contracts of indefinite time. Their working status is explicitly defined in their founding laws, and the General Regulations or Regulations of the Personnel Status¹⁰¹⁰. The structure of these texts is almost identical to that of the Civil Servants' Code, and sometimes they invoke provisions that apply to employees of public law legal entities (Symeonides, 1991).

iii) *Revocable, non-tenured civil servants on a private law contract of indefinite¹⁰¹¹ or definite time* (article 103, par. 5 of the Constitution). This category comprises the administrative personnel, and high-ranking employees holding posts beyond the civil service hierarchy¹⁰¹². They are directly appointed by the elected politicians and the political staff, thus enjoying their personal trust, and can be dismissed at any time without special guarantees and compensation.

iv) *Non-tenured civil servants with a mandate*. Their posts are provided for as an exception in relation to those occupied by permanent civil servants. They equally enjoy the guarantees of tenure during their mandate.

v) *Civil servants on a private law contract of definite time* in order to fill unforeseeable and urgent needs.

Mobility rules for civil servants (transfers, secondments, reclassifications)

The practice of transfers, that is, permanently posting civil servants from one Ministry to another, or to another public service, or to a public law legal entity and vice-versa, was first introduced in the Civil Servants' Code in 2007 (Law 3528/2007, Civil Servants' Code of 2007, article 71). Moreover, according to circulars of the Ministry of the Interior¹⁰¹³, employees of first and second-level local government agencies as well as employees of local government enterprises, which do not pertain to the public sector pursuant to article 51 of the law 1892/1990, do not fall under the ambit of article 71. As for the procedure to be followed, a public service intending to fill vacant positions of the organisational chart proceeds to a public announcement, and the interested employees submit their applications. The service defines the formal qualifications or additional ones, and the employee is transferred upon the opinion of the service council of the receiving service. This new regulation actually broadened the transfers system in relation to the past since transfers were only permitted within the same service, that is, either within the service-unit, or to and from regional offices. Interestingly enough, despite the fact that transfers from one service to another were not provided for in the Civil Servants' Codes of 1951, 1977 and 1999, a series of special provisions on transfers were promulgated. The relevant laws either referred to

¹⁰¹⁰ Public Enterprises and Organisations adopt General Regulations which are foreseen in their founding laws. They are approved, in turn, by the competent Minister and have the force of a substantial law.

¹⁰¹¹ The duration of their contract actually coincides with the mandate of those who appointed them.

¹⁰¹² This category comprises the personnel appointed to the political bureaus of the Prime Minister, Ministers, Deputy Ministers, and the general and special secretaries of ministries, the Presidency of the Republic, the regions of the State, as well as those appointed as ambassadors and do not pertain to the diplomatic corps. Apart from the revocable administrative staff, the other high-ranking employees are divided into three categories: the Special Advisors, the Special Collaborators, and the Scientific Collaborators.

¹⁰¹³ Circulars: ΔΙΑΔ/Φ.35.14/916/4084/15.2.2007 and ΔΙΑΔ/Φ.48/31/οτκ.9253/12.4.2007.

specific services and ministries, or regulated issues of personnel surplus in private law legal entities of the public sector, that is, through their transfer to public services or public law legal entities.

The law 2266/1994 attempted to systematize the procedure of transfers for all the civil servants employed in the public services, public law legal entities, and first and second-level local government agencies. It created a quite complicated transfer system, whereas it set the precondition that before the application of the measure all the services had to compile new organizational charts. The transfers would take place every three years. In reality, this transfer scheme was never implemented in an organized manner. Instead, as the Explanatory Report of Parliament¹⁰¹⁴ states regarding the new article 71 of the Civil Servants' Code of 2007, there was no transparency in the past, and transfers took occasionally place, and under secrecy. In April 2011, the Minister of the Interior, Ioannis Ragoussis, announced the elaboration of a draft law regarding the establishment of a credible transfers system based on merit. He also denounced the clientelistic and corrupt practices of the past in relation to transfers. According to this new scheme, the Supreme Council for the Selection of Personnel shall be responsible for its implementation¹⁰¹⁵.

One general principle deriving from the constitution and common legislation is that the transferred employees' working status does not change, that is, it is not permitted to transfer employees on private law contract of indefinite time to permanent positions of the organisational chart, and vice-versa¹⁰¹⁶ (Tachos and Symeonides, 2004). In cases of compulsory transfers, namely when there is personnel surplus in private law legal entities of the broader public sector¹⁰¹⁷ or in cases of privatizations¹⁰¹⁸, the employees on private law contracts of indefinite time are transferred to their new services under the same working status. If there are no vacant positions of private law in the organisational chart, they fill positions of the organisational chart which are created *ad hoc*. These rules are explicitly set forth in the relevant legislation providing for such transfers.

Interestingly enough, a few months after the promulgation of the Civil Servants' Code in 2007, article 71 on transfers was supplemented by article 6 of the law 3613/2007. This article provides that employees from state private law legal entities and public

¹⁰¹⁴ Explanatory Report of Parliament on the draft law "Ratification of the Code of status of the Public Civil Administrative Servants and Employees of Public Law Legal Entities", dated December 4, 2006, available at: <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/K-DHMYPA-eis.pdf>, date of access: 26.6.2011.

¹⁰¹⁵ Source: Article of the newspaper "To Vima" entitled "Civil Servants' transfers through the Supreme Council for the Selection of Personnel", dated: April 6, 2011, available at: <http://www.tovima.gr/politics/article/?aid=394160>, date of access: 12.4.2011

¹⁰¹⁶ Decision 4930/1996 of the Council of State, Decisions 150/1973 and 1784/1972 of the Supreme Council of Public Services (ASDY), Opinion 401/2008 of the Legal Council of State.

¹⁰¹⁷ See article 56 of the law 1943/1991

¹⁰¹⁸ We refer to the privatization of Olympic Airways. Article 1 of the Act of Legislative Content (Government Gazette, vol. A, no 181, 16.9.2009) supplementing and amending the provisions of the law 3717/2008 on "Social regulations for the employees of the companies "Olympic Airlines S.A.", "Olympic Airways-Services S.A." and "Olympic Aviation S.A." and other provisions" provided that the personnel "*are transferred with the same working status to private law legal entities supervised by the Ministry of Transport and Communication, public services, autonomous or independent authorities, public law legal entities and first and second-level local government agencies*".

utilities (DEKO)¹⁰¹⁹ may equally participate in the transfer procedure of article 71 in order to fill permanent vacant positions of the organisational charts of state services and public law legal entities. In our opinion, it is far from clear that this supplementary provision is unconstitutional, and rather serves clientelistic purposes. More specifically, it violated article 103, par. 8 of the Constitution since conversion by law of those employed on private law contracts in the Public Administration and the broader public sector to permanent civil servants is prohibited. In our case, the working status changed indirectly, through the transfer procedure. Nevertheless, it seems that the trend towards further privatizations of public utilities, and the probability of the disbandment of a number of state private law legal entities in the future led political decision-makers to proceed to this legislative regulation. It would serve as a means to calm the employees' insecurity, and thus satisfy the demands of a part of their political clientele through transfers to services pertaining to the core of the State guaranteeing tenure.

We should point out that, before the promulgation of article 71 of the Civil Servants' Code in 2007, all transfers, with the exception of the compulsory ones, were effected upon the agreement of the service councils of the releasing and receiving agencies. Finally, the administrative act of the transfer is signed by the competent ministers of the receiving and releasing agencies, and is published in the government gazette.

According to the Civil Servants' Code, secondments concern temporary removals, either from one unit to another within the same ministry or public law legal entity, or from public services or public law legal entities to another public service or public law legal entity, in order to meet serious and urgent service needs of a temporary character by decision of the competent minister/s upon the opinion of the relevant service councils. The Civil Servants' Code does not provide for a public announcement for the submission of candidacies for the secondments. Thus, it could be argued that they are part of the clientelistic practices in the Greek public administration. Finally, secondment is a temporary measure which should not be used for the fulfillment of permanent service needs, namely secondments of unlimited time (Decision of the Council of State, 420/1991).

Reclassifications concern changes in the employee's service status, and are linked to his formal qualifications. Before explaining the procedure, it is necessary to clarify the classification of the positions in the Greek Civil Service in categories and branches. According to the Civil Servants' Code, the positions of the personnel are classified in the following categories which are linked to the civil servants' formal qualifications:

- i. Special Positions (SP); they are provided for in special provisions
- ii. University Education positions (UE); the formal appointment qualification is a degree or diploma from a Greek University School or Department, or an equivalent foreign educational institute.
- iii. Technological Education positions (TE); the formal appointment qualification is a certificate or diploma from a Greek technological educational institute or an equivalent Greek or foreign certificate or diploma or a Centre of Higher Technical

¹⁰¹⁹ The clause explicitly refers to those public utilities that are not entered the Stock Exchange Market, whereas the State possesses the majority of their shares.

and Vocational Education (KATEE) diploma or an equivalent Greek or foreign certificate diploma.

iv. Secondary Education positions (SE); the formal appointment qualification is a graduation certificate or diploma from a secondary education school or other equivalent school.

v. Compulsory Education positions (CE); the formal appointment qualification is a compulsory education graduation certificate or a graduation certificate from an equivalent lower technical school.

The categories of each position are further classified in branches corresponding to field specializations. The classification and distribution of positions by categories, and branch specializations as well as the description of the formal qualifications required for the appointment to the posts are defined in the relevant organizational charts. The Presidential Decree 50/2001¹⁰²⁰, as amended, sets the qualifications for appointment in positions of the public sector by category and branch, and serves as a source for the drafting of the organizational chart of each service.

A civil servant may be reclassified i) from one branch to another within the same category either upon the initiative of the service or upon the civil servant's request, and ii) from a lower category and branch to a superior category and branch upon the civil servant's request. The employee may apply for reclassification under the preconditions that the relevant positions are vacant, and the applicant possesses the required formal qualifications.

¹⁰²⁰ The Presidential Decree 50/2001 regarding the qualifications in the public sector replaced the Presidential Decree 194/1988.

APPENDIX 8

Complementary texts and tables on the Supreme Council for the Selection of Personnel

Text 1: Decodification of the transfer decisions

The information contained in the transfer decisions combined with the legal status of the agencies of provenance constitute the main criteria to test the legality of transfers. Indeed, information gaps in the texts of the transfer decisions unravel the embarrassment regarding their formulation as well as their inconsistencies. In Tables 1 and 2 there is an attempt to decode the legal aspect of the employment relationship - public or private law contract- of the transferred personnel before and after their transfer as formulated in the text of the transfer decisions published in the Government Gazette.

More specifically, Table 1 describes the variations in the formulation of the two parts of the transfer decisions in relation to regular employees. The term “regular employees” refers to their working status before the transfer. Their working status in the releasing and receiving agencies is not explicitly written in the text of the transfer decisions¹⁰²¹. However, apart from the criterion of the legal status of the releasing agency, the other main criterion that permits us classify an employee as regular is whether he possesses a grade. This information is either explicitly written in the first part of the transfer decision, e.g. grade C, or indirectly formulated under the expression “with the grade he possesses”, namely he is transferred with the grade he possessed at the releasing agency.

It should be noted that employees on private law contracts of indefinite time working in public services, public and private law legal entities do not possess grades. Grade systems may exist in some public enterprises and organizations. However, they are not compatible with the ones provided for in the Civil Servants’ Code. Finally, according to table 1, all the regular employees filled vacant permanent positions of the organisational chart of the Supreme Council for the Selection of Personnel.

Table 2 describes the variations in the formulation of the two parts of the transfer decisions in relation to employees on private law contracts of indefinite time. The term “employees on private law contracts of indefinite time” refers to their working status before the transfer. This category of personnel raises the issue of the legality of the transfers. Following the structure of Table 2, they may be divided into three subcategories sharing two common characteristics: i) all the releasing agencies are private law legal entities, and ii) all the employees do not possess grades in the first part of the transfer decisions.

The first subcategory comprises employees on private law contracts of indefinite time, whose working status, category, branch and grade are not described in the first part of the transfer decision, that is, their status at the releasing agency. In other words, the first part of the transfer decision remains silent on their status at the releasing agency.

¹⁰²¹ The transferred to the receiving agency, the Supreme Council for the Selection of Personnel, fill vacant permanent positions since the organizational chart of the authority only foresees positions for regular civil servants.

Table A Variations in the formulation of the text of transfer decisions for the regular employees

General Status in the releasing agency (before the transfer)			General Status in the receiving agency (after the transfer)		
<i>Working Status</i> “employee”	<i>Grade</i> Yes*	<i>Category & Branch</i> Yes	<i>Working Status</i> Not explicitly written. “transfer to the post of the branch and category . . . of the Supreme Council for the Selection of Personnel”	<i>Grade</i> Not written (it is understood that it will be the same with the one in the previous post)	<i>Category & Branch</i> Yes
“judicial employee”	Yes* * only regular civil servants possess grades	No	Not explicitly written. “transfer to the Supreme Council for the Selection of Personnel”	Not written (it is understood that it will be the same with the one in the previous post)	No
“Regular employee” or “employee”	Yes* * only regular civil servants possess grades	Yes	“Transfer to a vacant position”	Yes	Yes
“employee”	Yes * only regular civil servants possess grades	Yes	“Transfer to a vacant position of equivalent grade”, that is, regular employee	“Equivalent Grade” (with the one in the previous position)	Yes
name	Yes * only regular civil servants possess grades	Yes	“Transfer to a vacant position”	“With the grade he/she possesses”	Yes
name	No (it is not explicitly written)	No	“Transfer to a vacant position”	“With the grade he/she possesses”	Yes

However, in the second part of the transfer decisions it is explicitly written that they fill vacant permanent positions of the organisational chart of the Secretariat, whereas their categories, branches and grades are equally defined. In a few cases, the grades are missing in the second part of the transfer decisions. It is rather obvious that we have a tacit conversion of the working relationship, whereas the existent inconsistencies between the two working relationships related to categories, branches and grades may explain why there is no information in the first part of the transfer decisions.

The second subcategory comprises employees on private law contracts of indefinite time, whose working status is explicitly written in the first part of the transfer decisions, whereas they do not fill vacant permanent positions of the organizational chart of the Secretariat.

Table B Variations in the formulation of the text of transfer decisions for the employees on private law contract of indefinite time

General Status in the previous position (before the transfer)			General Status in the new position (after the transfer)		
Working Status	Grade	Category & Branch	Working Status	Grade	Category & Branch
Undefined working status - "employee"	No	No	Not explicitly written. "Transferred to the Secretariat of the Supreme Council for the Selection of Personnel" [However, it is understood that it is a vacant position since the organizational chart foresees only regular personnel].	No	Yes
Undefined working status - "employee"	No	No	Not explicitly written. "Transferred to the Secretariat of the Supreme Council for the Selection of Personnel" [However, it is understood that it is a vacant position since the organizational chart foresees only regular personnel].	Yes	Yes
Undefined working status - "employee"	No	No	Transfer to a vacant position	No	Yes
Employee with mandate	No	Only category. No Branch	Transfer to a vacant position	Yes	Yes
Name	No	No	Transfer to a vacant position	Yes	Yes
Employee with a private law contract of indefinite time	No	Yes	Personal position beyond the organizational chart on a private law contract of indefinite time.	No	No. It is understood that it will be the same.
Employee with a private law contract of indefinite time	No	No	Personal position beyond the organizational chart on a private law contract of indefinite time.	No	No
Employee with a private law contract of indefinite time	No	No	Not explicitly written. "Transferred to a position of the personnel of the Secretariat of the Supreme Council for the Selection of Personnel" [However, it is understood that it is a vacant position since the organizational chart foresees only regular personnel].	Yes	Yes
Employee with a private law contract of indefinite time	No	No	Personal position beyond the organizational chart with the same working relationship (private law contract of indefinite time)	No	Yes
Employee with a private law contract of indefinite time	No	No	Vacant position	Yes	Yes
Employee with a private law contract of indefinite time	No	Yes	Vacant position	Yes	"the same branch and category"
Employee with a private law contract of indefinite time	No	Yes	Vacant position	Yes	Yes
Employee with a private law contract of indefinite time	No	Category. No branch	Vacant position of a regular employee	Yes	Yes
Employee with a private law contract of indefinite time	No	No	Vacant position of a regular employee	Yes	Yes

Instead, they keep their previous working status, and they fill personal positions, which are created *ad hoc*, beyond the positions provided for in the organizational chart. These positions are abolished after their retirement from the authority. The third subcategory comprises employees on private law contracts of indefinite time, whose working status is explicitly written in the first part of the transfer decisions. Thus, the transfer decision by describing their previous working status openly converts their working relationship since the transferred employees fill vacant permanent positions of the organisational chart according to the second part of the transfer decisions.

Finally, the case of “the employee with mandate” was incorporated in Table 2 without actually pertaining to the category of employees on private law contracts of indefinite time. It refers to the case of the transfer of two revocable civil servants on private law contract with a three-year mandate. This extraordinary case will be analysed later on.

TABLE 1 Releasing agencies by categories

<i>The transferred personnel's agencies of provenance by categories</i>	<i>% Transferred personnel by category of agency</i>
Public Enterprises and Organisations	28% (58 of 200)
Various Private Law Legal Entities	14% (30 of 200)
Social Security-Pension Funds	11% (24 of 200)
Armed Forces	9% (19 of 200)
Central Services of Ministries	9% (18 of 200)
First and Second-level local government agencies	6% (11 of 200)
Various Public Law Legal Entities	5% (10 of 200)
Hospitals and public health bodies	5% (9 of 200)
Courts	3% (5 of 200)
Autonomous Services	2% (4 of 200)
Second level local government enterprises	2% (3 of 200)
Independent Authorities	2% (3 of 200)
Subsidiaries of Public Banks	2% (3 of 200)
Higher Education Institutions	1% (2 of 200)

Source: The Government Gazette

Table 2 Supervising Ministries of the releasing agencies*

<i>The transferred personnel's agencies of provenance by supervising Ministry</i>	<i>% Transferred personnel by supervising Ministry</i>
Ministry of Development	16% (32 of 200)
Ministry of Defence	15% (29 of 200)
Ministry of Finance	11% (22 of 200)
Ministry of Employment	9% (21 of 200)
Ministry of Health and Welfare	10% (20 of 200)
Ministry of the Interior	10% (19 of 200)
Ministry of Transport and Communications	8% (16 of 200)
Ministry of Foreign Affairs	6% (11 of 200)
Ministry of Agriculture	4% (7 of 200)
Ministry of National Education and Religious Affairs	3% (6 of 200)
Ministry of Justice	3% (5 of 200)
Ministry of Public Works	2% (3 of 200)
Ministry of Public Order	2% (3 of 200)
Ministry of Culture	1% (2 of 200)
Ministry of Press and Mass Media	1% (1 of 200)
General Secretariat of the Cabinet	1% (2 of 200)
Ministry of Commercial Shipping	1% (1 of 200)

* The central services of Ministries are also included

Source: The Government Gazette

Text 2: Analysis of the controversial and extraordinarily irregular cases of transfers

We have located the following controversial cases:

i) Employees transferred from public services and public law legal entities, whose working relationship in the releasing agency is not defined since they possess no grade in the first part of the transfer decision. These might be cases of tacit conversion since the working status in the previous position is not revealed. We have identified 13 cases¹⁰²².

ii) The transfer of judicial employees pursuant to article 1, par. 6 of the law 2349/1995 might be considered as unconstitutional, as previously analyzed. We have identified five cases¹⁰²³.

iii) The possibility of transferring employees coming from first and second level local government agencies could be considered dubious. The Code of Municipalities and Communities of 1981 did not provide for transfers from local government agencies to the other public services and public law legal entities. On the other hand, the Presidential Decree 33/1996 on the Code of Second level local government authorities allows for such transfers. However, if we apply in the case of transfers to the Secretariat of the Supreme Council for the Selection of Personnel the interpretation of the clause 71 of the Civil Servants' Code of 2007 regarding its scope of implementation, as formulated in the circulars of the Ministry of the Interior, the employees of first and second-level local government agencies do not fall under the ambit of the regulation. We have identified eleven cases, namely five employees transferred from prefectures¹⁰²⁴, and six employees transferred from municipalities¹⁰²⁵. Within this category, there might be three cases¹⁰²⁶ of tacit conversion of the employees' working status.

iv) Cases of transfers which occur simultaneously with a reclassification procedure to another branch within the same category. More specifically, the employees before the transfer pertained to the category and branch of C.E. Worker (case 35), C.E. Water Worker (case 178), and C.E. Cleansing Workers (179 and 180), whereas their branch was converted to that of C.E. Auxiliary Staff through their transfer. However, the public announcement for the submission of candidacies in the three last cases¹⁰²⁷ announced the filling of vacant positions of C.E. Auxiliary Staff¹⁰²⁸, and not C.E. Workers.

v) Cases of transfers from former public law legal entities converted to public anonymous companies by the time of the transfer. More specifically, after the conversion of the public law legal entities, Organisation of the Central Market of

¹⁰²² Cases 34, and 108 refer to employees coming from public services. Cases 56, 57, 76, 97, 102, 104, 128, 135, 141, 142, 156 refer to employees coming from public law legal entities.

¹⁰²³ Cases 7, 68, 105, 106, and 112.

¹⁰²⁴ Cases 127, 155, 165, 169, and 181.

¹⁰²⁵ Cases 136, 170, 172, 178, 179 and 180.

¹⁰²⁶ Cases 127, 179, and 180.

¹⁰²⁷ We do not have information on the public announcement of the first case. However, we suppose that the public announcement provided for the submission of candidacies for C.E. Auxiliary Staff.

¹⁰²⁸ Source: Press Releases of ASEP, available at: <http://www.asep.gr/deltyp.htm>, date of access: 25.5.2004

Athens, and the National Road Fund¹⁰²⁹, to anonymous companies, the regular employees of the former public law legal entities filled personal permanent positions created *ad hoc* by the General Personnel Regulations. These positions would be abolished after the retirement of the employees for whatever reason. In other words, the employees kept the previous status of regular civil servants after the conversion of the public law legal entities to anonymous companies¹⁰³⁰.

However, legal theory (Tachos, 2004) challenges relevant legislative regulations, and considers them as unconstitutional in two respects. First, these clauses actually provide for the phenomenon according to which permanent employees serve in public anonymous companies, namely private law legal entities, whereas the Constitution explicitly provides that permanent civil servants serve in the State, local government agencies, and public law legal entities (article 103, par. 6). Second, permanent tenure pursuant to article 103 par. 2 of the Constitution,¹⁰³¹ and article 39, par. 1 of the Civil Servants' Code¹⁰³² presupposes the existence of a position in the organisational chart as provided by law. However, these positions of the organisational chart of the permanent personnel serving in these public law legal entities were abolished since the Service, that is, the public law legal entity, was abolished and converted to an anonymous company, that is, a private law legal entity. Moreover, the jurisprudence of the Council of State (Decision 867/2002)¹⁰³³ has ruled that the working regime of the personnel of public law legal entities undergoing conversion may not be other than that regulated by private law since a public law working relationship is incompatible with the legal status of private law legal entities. Consequently, the transfer of four employees, two from the Organisation of the Central Market of Athens (Cases 101, and 125), and two from the Anonymous Company for the Exploitation and Management of Greek Highways (Cases 134, 195) who were considered as regular civil servants despite the fact that the transfer took place after the conversion of the legal status of these agencies, could be considered as dubious.

c. The category of extraordinarily irregular transfer cases refers to cases that present special interest in relation to the violation of legislation. The following cases were located:

i) The transfer of two employees with a three-year mandate from the General Secretariat of the Cabinet¹⁰³⁴ (Cases 12 and 13) was illegal. As already stated,

¹⁰²⁹ It was renamed as "Anonymous Company for the Exploitation and Management of Greek Highways" (TEO S.A.) after its conversion to an anonymous public company.

¹⁰³⁰ Interestingly enough, the working status of the employees of the Postal Savings SA, a former public law legal entity converted to an anonymous public company by law 3082/2002, was regulated in a different manner, which, in our opinion, was consistent with the constitutional demands. Thus, according to article 5 par. 1 of the said law the permanent personnel were transferred *ipso jure* to the Company on private law contract, whereas par. 4 provided for guarantees similar to those for civil servants in relation to the termination of the personnel's working relationship.

¹⁰³¹ Article 103 par. 2 of the Constitution reads as follows: "*No one may be appointed to a post not provided by law*".

¹⁰³² Article 39, par. 1 of the Civil Servants' Code reads as follows: "Civil servants and employees of public law legal entities possessing positions of the organisational chart provided by law are permanent as long as these positions exist".

¹⁰³³ Council of State, Department D, Decision 867/2002, Source: The Official Website of the Athens Bar Association, available at: <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 11.07.2011.

¹⁰³⁴ These positions are provided for in article 4 entitled "personnel with mandate" of the Act of the Cabinet 154/13.12.1985 regarding the "Structure, competences and personnel of the Secretariat of the

revocable civil servants of article 103, par. 5 of the Constitution do not have tenure, and therefore, even if a mandate is provided for, they are dismissed after the expiration of their mandate without special guarantees and compensation. These two cases are not simply transfer cases. They actually conceal new appointments through a transfer procedure, namely these individuals were transferred as if they were civil servants which was not the case. In this sense, they were appointed in a public service, thus bypassing the relevant legislation for recruitments in the public sector.

ii) The transfer of a permanent civil servant pertaining to the civilian personnel of the National Intelligence Service (Case 19) was irregular in two respects. First, the National Intelligence Service is exempted from the scope of implementation of article 14 of the law 2190/1994 according to the list of the exempted public bodies. Therefore, transfers are also exempted pursuant to par. 2, subpara. v of the said article. Second, transfers from the National Intelligence Service are provided for in case of personnel surplus or when the NIS estimates that one of its employees can no longer work there in case his presence is not in the interest of the service pursuant to article 10 par. 2 of the law 1645/1986. Therefore, accepting a candidature from a member of the civilian personnel of the NIS, after a public announcement, as is the case with the Supreme Council for the Selection of Personnel, seems problematic. Finally, all individual administrative acts regarding the service status (appointments, transfers etc) of the personnel of the NIS are not published in the Government Gazette pursuant to article 11 of the law 1645/1986. Nevertheless, the transfer to the Supreme Council for the Selection of Personnel was published in the Government Gazette.

iii) The transfer of employees from the Organisation Against Drugs (Cases 87 and 139), and the Centre for Infectious Diseases Control (Cases 74 and 110) was irregular in two respects. First, these agencies were both exempted from the scope of implementation of article 14 of the law 2190/1994 according to the list of the exempted public bodies. Therefore, transfers are also exempted pursuant to par. 2, subpara. iv of the said article. Second, these agencies were private law legal entities, and thus the employees' working status was converted.

iv) The transfer of nine (9) employees from the Centre of Innovation SA (Cases 25 and 26), the Shipyards of Elefsina (Cases 28, 29, 30, 31, and 32), and the Hellenic Shipyards (Cases 69 and 70), which were private law legal entities, is equally problematic. The working relationship of the transferred employees, that is, private law contract of indefinite time, was not converted to a public law working relationship. All the employees filled personal positions of private law beyond those provided for in the organizational chart of the authority. However, these transfers had a compulsory character since the Centre of Innovation SA was disbanded, whereas the Shipyards of Elefsina SA and the Hellenic Shipyards SA were privatized by the time these transfers occurred. Special provisions in legislation¹⁰³⁵ and ministerial

Cabinet". The appointment and dismissal of the personnel of the General Secretariat of the Cabinet are effected by decision of the Prime Minister published in the Government Gazette. Flogaitis (1986) states that the personnel serve a three-year mandate which corresponds to the average term of office of a government supported by the same composition in Parliament. However, in his view, the capacity of a revocable employee would have been more consistent with the logic of the law.

¹⁰³⁵ Article 8 of the law 2436/1996 regulates the issue of the transfer of the personnel of the Centre of Innovation SA. Article 20 of the law 2414/1996 and article 13 of the law 2367/1995, as replaced by article 18 of the law 2446/1996, provide for the transfer of the personnel of the Shipyards of Elefsina and the Hellenic Shipyards, respectively.

decisions¹⁰³⁶ regulated the procedure for the transfer of the personnel of these agencies. The transfer procedures did not have a competitive character since they were compulsory¹⁰³⁷. On the other hand, these legislative initiatives explicitly specified that the transferred employees would fill personal positions of private law which would be created *ad hoc* beyond those provided for in the relevant organizational charts of the receiving agencies. The issue raised by these cases is that there is high probability that the authority bypassed the competitive character of its own transfer system. Interestingly enough, these are the only transfer cases where the working status of employees on private law contracts of indefinite time coming from private law legal entities is not converted to a public law working relationship. And this proves our point that all the other conversions of the working status of the employees coming from private law legal entities were irregular.

v) The transfer of one employee (Case 20) from the ailing firm “Piraiki-Patraiki SA”, an over-indebted cotton manufacturing firm, nationalized in the early 1980s, is equally puzzling. In 1984, the company fell under the jurisdiction of the Organisation for the Economic Reconstruction of Enterprises, a private law legal entity, which was established in 1983 as a holding company for ailing firms, whereas the debt of Piraiki-Patraiki then amounted to 50 billion drachmas. However, the firm finally closed on December 31, 1992 with a multiplied debt of 240 billion drachmas. The liquidation process lasted four years, that is, from 1992 until 1996. The working relationship of the personnel was terminated. The liquidator kept 34 employees for the needs of liquidation, whereas three hundred employees were hired during the period of liquidation after the victory of PASOK in the national elections of October 10, 1993¹⁰³⁸. The transfer under question took place in January 1997. The employee seems to have been one of those three hundred hired for the special liquidation process since she was given grade D according to the second part of the transfer

¹⁰³⁶ The joint ministerial decision No ΔΙΠΠΔΔ/Φ22Α/682/15793 defines the procedure for the transfer of the employees of the Shipyards of Elefsina S.A. (Government Gazette, vol. B, no 582, 17.7.1996). The joint ministerial decision, published in the Government Gazette, vol. B, no 128, 27.2.1997, defines the procedure for the transfer of the employees of the Hellenic Shipyards SA.

¹⁰³⁷ In the case of the Shipyards of Elefsina SA and the Hellenic Shipyards SA it was the Ministry of the Interior that centrally handled the transfer procedure. These enterprises had the obligation to send lists containing information on the employees’ service and family status to the Ministry of the Interior. On the other hand, the public services, public law legal entities, first and second-level local government agencies, public enterprises and organizations had to inform the Ministry of the Interior of their vacant positions by specialization or their service needs beyond vacant positions they intended to fill through the transfer of employees from these enterprises. In the case of the Centre of Innovation SA, article 8 of the law 2436/1996 did not give detailed information on the transfer procedure. It simply stated that the “transfer takes place upon a joint ministerial decision of the Minister of the Interior, the Minister of Development, and the Minister supervising the public body to which the employee is transferred, on the proposal of the Management Board of the Centre of Innovation SA, to existent vacant positions of the organisational chart on private law contract of indefinite time, and if there are no vacant positions of the organisational chart, to personal positions created by the transfer decision”. However, transfers to the Supreme Council for the Selection of Personnel do not provide for the concurrent opinion of the service council of the releasing agency.

¹⁰³⁸ Source: Question of the MP Michalis Bekiris (New Democracy) addressed to the Minister of Justice, dated March 6, 2008, on the issue of thirteen employees of Piraiki-Patraiki who had been selected for the process of liquidation, and were unexpectedly fired on December 31, 1993. The MP claimed that they were fired for political reasons. After their dismissal, they appealed to the Courts, and won their case. However, according to the MP, the State refused to compensate them. Information available at: http://www.bekiris.gr/index.php?option=com_content&view=article&catid=40:2010-05-10-07-56-19&id=552:2010-07-06-08-15-41, date of access: 16.2.2010.

decision. Consequently, following the grade system in force, she must have been working for two years at the most before her transfer to the authority. Nevertheless, there was no special legislative regulation for the possibility of transferring the personnel whose working relationship had been terminated, those responsible for the liquidation process included. More specifically, par. 5 of article 34 of the law 1876/1990, as replaced by par. 5, article 56 of the law 1943/1991 provided that transfer procedures regarding the surplus personnel of the public sector did not apply in the following public bodies: the Public Power Corporation, the Greek Telecommunications Organisation, banks of the public sector, enterprises under the jurisdiction of the Organisation for the Economic Reconstruction of Enterprises, as well as enterprises of the public sector which were not viable, especially those under bankruptcy or liquidation. Furthermore, pursuant to article 33 of the law 1892/1990, all the employees of the ailing companies under the jurisdiction of the Organisation for the Economic Reconstruction of Enterprises, whose employment relationship had been terminated, could participate in integration unemployment programmes. Finally, pursuant to article 19 of Law 2548/1997 unemployed employees¹⁰³⁹ of the Piraiki-Patraiki, who fulfilled special preconditions, namely those close to pension age, would receive special unemployment benefits until their retirement.

Similar cases are those of two employees from the Greek Iron Mixtures SA and two employees from the Greek Company of Industrial and Mining Activities SA which seem problematic in relation to the permissibility of the transfer. Both public enterprises were under liquidation when the transfer occurred.

Finally, the case of one transferred employee from the Hellenic Railways Organisation SA (case 90) confirms our view for the irregular conversion of the working relationship of the employees coming from private law legal entities. Article 12 of the law 2671/1998 regulated the transfer of the surplus personnel of the organization to other agencies, namely “*services of Ministries, autonomous services or independent authorities included, regions, public law legal entities, first and second-level local government agencies, and other agencies of the broader public sector*”. The article provided for a certain procedure for the transfers, which was centrally handled by the Ministry of the Interior, Public Administration, and Decentralisation. However, this procedure bypassed the competitive procedure provided for the transfer of personnel to the Supreme Council for the Selection of Personnel since employees could also be transferred to independent authorities. On the other hand, par. 5 of article 12 explicitly provided that the personnel were transferred to vacant positions on private law contract of indefinite time. In case there were no vacant positions, personal positions were constituted with the act of the transfer. The transfer of the employee from the Hellenic Railways Organisation SA to the Supreme Council for the Selection of Personnel was published in the government gazette on July 1, 1999, that is, six months after the promulgation of the law 2671/1998. It is unclear whether the transfer was effected according to the provisions of the law 2671/1998 regarding the surplus personnel of the Hellenic Railways Organisation SA or according to the competitive procedure provided for in the relevant legislation for the transfer of personnel to the Supreme Council for the

¹⁰³⁹ According to the clause, the term “unemployed employees” encompasses those who were fired in 1992 as well as those hired for the special liquidation process, and fired in 1997.

Selection of Personnel. Irrespective of the procedure followed, the employee was irregularly transferred to a permanent vacant position of the organisational chart.

Text 3 and Table 3: The status of the releasing agencies by the time of the transfers

The empirical data derived from the government gazette relating to the releasing agencies permitted the construction of Table 3 containing information on the status of each releasing agency (legal status, under liquidation, trade sales) by the time of the transfer or shortly afterwards, the number of employees transferred by agency, and, in some cases, crucial dates of transfers in relation to any change in the status of an agency.

One group of the releasing agencies comprises public anonymous companies which were under liquidation when the transfers took place (Greek Technology and Constructions S.A., Greek Iron Mixtures SA, Piraiki-Patraiki SA, Greek Company of Industrial and Mining Activities SA), whereas there was no special legislative regulation for the transfer of the personnel. Only in the case of Greek Technology and Constructions SA the law 2364/1995 promulgated ten months after the transfer of three of its employees to the authority provided that the personnel of the public anonymous company would be transferred to the Public Power Corporation SA. Some transfers occurred shortly before the trade sale or the disbandment of public anonymous companies or private law legal entities (Athens Paper Mill SA, Industrial Reconstruction Organisation SA¹⁰⁴⁰, Pindos SA, National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks). In one case the transfer seems to have taken place after the trade sale (Athens Paper Mill SA). It should be noted that there was no legislative regulation for the transfer of the personnel of Athens Paper Mill SA after the trade sale in 1999¹⁰⁴¹. The company was resold in 2002. This was also the case with Pindos SA¹⁰⁴² which was disbanded in December 2001.

The transfer of ten employees from the public benefit non-profit foundation “National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks” (EIYAPOE) is of interest. Their transfer was gradual. It started in 1998 and ended in 2003. As for the way of their recruitment to the Foundation, the MP of PASOK, Christos Kipouros, denounced in Parliament during discussions and debates

¹⁰⁴⁰ The organisation was disbanded by the law 2741/1999. Article 29 of the said law provided the transfer of the personnel of the Organisation as well as that of its ailing public companies under liquidation to the Ministry of Development or other public bodies supervised by the said Ministry.

¹⁰⁴¹ The unemployed personnel of the company could participate in special local programmes for re-specialization, training and acquisition of professional experience according to article 50 of the law 3427/2005. Interestingly enough

¹⁰⁴² Founded around 1989, the company pertained to the State through the Agricultural Bank of Greece and the Greek Industrial Development Bank, whereas three agricultural cooperatives held 46,5% of the shares. The company was disbanded in December 2001, and sold in 2003. There was no legislative regulation for the transfer of the personnel to other services of the public sector. The unemployed personnel (100 persons) received an extraordinary financial support (733 EURO), and special employment allowance, and could participate in integration unemployment programmes (Ministerial Decision regarding the extraordinary financial support published in the Government Gazette, vol. B, no 1811, 31.12.2001, and Laws 2956/2001 and 3144/2003 regarding the prolongation of the payment of the special employment allowance).

on the draft law¹⁰⁴³ “*Establishment of an independent authority for the selection of personnel and regulation of public administration issues*”, on February 2, 1994, that the majority of the personnel of the Foundation were appointed by Mr Samaras¹⁰⁴⁴ and came from his electoral constituency. The MP, in order to support his claims, submitted to Parliament an article published in the newspaper *Eleftherotypia* written by Michalis Charalambidis¹⁰⁴⁵ who revealed that event. However, we have evidence that the transferred employees were not appointed to the agency when the government of New Democracy was in power. According to their transfer decisions they were all given grade D with the exception of one who was given grade C. This means that they had served in the agency for two years at the most. All these transfers took place after 1998. Therefore, they were hired in 1996 onwards. The way of their recruitment is unknown¹⁰⁴⁶.

The foundation was established in 1990 and started its official operation on January 1, 1991. It was supervised by the Ministry of Foreign Affairs and the Ministry of Finance, and was disbanded in 2002 (Law 3072/2002). The staff could be transferred to several Ministries under the working status of an employee of private law contract of indefinite time¹⁰⁴⁷. However, the founding Presidential Decree as of 13.12.1990 (G.G. vol. B, no 782, 13.12.1990) provided that all the staff would be *ipso jure* fired from the foundation after the end of its operation¹⁰⁴⁸. The Supreme Council for the Selection of Personnel was not included in the list of the agencies where the employees could be transferred. On the other hand, there was a conversion of the working status of those transferred to the authority despite the fact that the personnel of the foundation were employees on private law contract of indefinite time and should fill personal positions in the organisational chart with the same working relationship according to article 17 of the law 3072/2002.

¹⁰⁴³ Minutes of Parliament, 8th Period (of Presidential Parliamentary Democracy), First Assembly, Session 53, discussion and debate in principal, February 2nd, 1994, available at: <http://www.hellenicparliament.gr/Praktika/Synedriaseis-Olomeleias?search=on&DateFrom=01%2F02%2F1994&DateTo=10%2F02%2F1994&SessionPeriod=92766fef-d4d2-4a56-a754-3081dfb67589>, date of access: 25.06.2010.

¹⁰⁴⁴ Minister of Foreign Affairs under the Coalition Government, the Oecumenical Government, and the New Democracy government (1989-1992). In 1993 he created the political party of Political Spring. His party did not participate in the national elections of 2000, whereas he publicly supported the party of New Democracy. He was elected President of the party of New Democracy on November 29, 2009.

¹⁰⁴⁵ Michalis Charalambidis was a founding member of the party of PASOK. He retired from the party in 1999 due to serious political disputes.

¹⁰⁴⁶ According to article 1, par. 1 of the law 2527/1997 the foundation fell under the ambit of the general recruitment system of the law 2190/1994.

¹⁰⁴⁷ Article 17, par. 2 of the law 3072/2002 reads as follows: “*Within the exclusive deadline of one month from the publication of the act of the appointment of the liquidation committee, the employees on private law contract of indefinite time have the right, upon request submitted to the committee, to pick, instead of their indemnification resulting from the termination of their working relationship, the transfer under the same working relationship to the Ministries of Foreign Affairs, Interior, Public Administration and Decentralisation, National Education and Religious Affairs, Macedonia-Thrace, the General Secretariat for Greeks Abroad, the Regions, as well as Higher Education Institutions according to their needs. . .*”

¹⁰⁴⁸ Article 4 par. a of the Presidential Decree reads as follows: “*a. The personnel are hired on a private law contract of indefinite time or, if this is not possible, are seconded from the broader public sector. The hiring contract explicitly states that after the termination of the work of the foundation the personnel are ipso jure fired, or in case of secondments, they return to the service they belong*”.

The releasing agencies whose public law legal status was converted to private law shortly after or before the transfer constitute another group (Organisation of the Central Market of Athens, Greek Postal Savings Bank, Piraeus Port Authority, and Anonymous Company for the Exploitation and Management of Greek Highways). The case of two transferred employees from the Company for Agricultural Development “Evrítania SA” is also characteristic. The company was established in 1978 by the Agricultural Bank of Greece and the Greek Industrial Development Bank for the development of the region of Evritania. In 1998, it passed under the authority of the Prefectural self-administration of Evritania -second-level local government- which kept the majority of the shares (70.34%). The transfers took place in 1998, that is, when the company became a second-level local government enterprise. However, since then the enterprise has faced severe financial problems, and its sixteen employees had been unpaid for seven years according to the employees’ memorandum addressed to the competent Minister of the Interior, Public Administration, and Decentralisation, Mr Prokopis Pavlopoulos, dated March 3, 2006¹⁰⁴⁹.

¹⁰⁴⁹ The full text of the memorandum was uploaded at the electronic edition of the local newspaper “Evrítanika Nea”, dated March 15, 2006, available at: <http://www.evrytanika.gr/0161-0180/0174/reportaz1.htm>, date of access: 3.9.2011.

APPENDIX 8-Table 3

The status of the releasing agencies of the transferred personnel						
Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Ministry of Development						
Central Service	2					
Greek Technology and Constructions S.A.	3	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company under liquidation	Transfer of Personnel to Public Power Enterprise, Law 2364/6.12.1995	24.2.1995
Greek Iron Mixtures	2	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company under liquidation	Under liquidation in 1991, Law 2000/1991, Still under liquidation in 2011 (Source: State Budget for the Year 2011, Ministry of Finance, available at: http://www.minfin.gr/budget/2011/proyp/PDFProyp/1.0.pdf , date of access: 4.4.2011)	27.12.1996
Piraiiki Patraiki	1	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company (Industrial Reconstruction Organisation) - Closed	1992-1996: Under liquidation. Pursuant to article 33 of the Law 1892/1990 all employees of the ailing companies of the Organisation for the Economic Reconstruction of Enterprises whose employment relationship was terminated could participate in integration unemployment programmes. Pursuant to article 19 of Law 2548/1997 unemployed employees of the Company who fulfilled special conditions (close to the age to receive pension) would receive special unemployment benefit.	22.1.1997

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Greek Company of Industrial and Mining Activities SA (ELEVME)	2	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company under liquidation	Under liquidation in 1991, Law 2000/1991. Still under liquidation in 2002, (Law 3066/18.10.2002), and 2011 (State Budget for the year 2011, Source: Ministry of Finance, available at: http://www.minfin.gr/budget/2011/proyp/PDFProyp/1.0.pdf , date of access: 4.4.2011)	22.1.1997, 27.10.2005
Hellenic Organisation of Small and Medium Enterprises and Handicraft (EOMMEX)	1	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company	1977: Private Law Legal Person 1997: Public Anonymous Company (Presidential Decree: 159/1996) Conversion to an anonymous company according to the Law 2414/1996	16.2.1998
General Mining and Metallurgical Company SA (LARKO)	3	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company	The Company was nationalised in 1989 (Shareholders: National Bank of Greece, Public Power Corporation, and the Industrial Reconstruction Organisation)	
Athens Paper Mill SA	4	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company (Industrial Reconstruction Organisation)	Trade Sale in 1999. Resold in 2002.	5.3.1998, 9.4.1998, 24.5.2002
Public Power Corporation SA	2	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company	1950: Private Law Legal Person 2000: Public Anonymous Company (Presidential Decree: 333/2000) Conversion to an anonymous company according to the Laws 2414/1996 and 2773/1999. The Company entered the Athens and London Stock Exchanges in 12.12.2001. Source: The Official Website of the Public Power Corporation, available at: http://www.dei.gr/Default.aspx?id=1001&nt=18&lang=1 , date of access: 5.3.2011	9.4.1998

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Organisation for the Economic Reconstruction of Enterprises SA	1	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company	Law 1386/1983: Public Anonymous Company Law 2741/28.9.1999: Disbandment of the company. Transfer of the Personnel of the Organisation and the personnel of its ailing public companies under liquidation to the Ministry of Development or other public bodies supervised by the said Ministry	9.4.1998
ETHNODATA SA	1	Private Law Legal Entity	Public Anonymous Company		Founded in 1981, specialises in Informatics Consultancy, the development of software, and training on issues of informatics and multimedia. Subsidiary of the National Bank of Greece which is the main shareholder. Since 1999 the shares of the National Bank of Greece are traded on the New York Stock Exchange. Source: National Bank of Greece, available at: www.nbg.gr/wps/wcm/connect/.../DELTIO_TELIKO.zip?MOD... , date of access: 5.3.2011	7.6.1999
Greek Salt Pits SA	2	Private Law Legal Entity	Public Anonymous Company		Founded in 1988, the Greek State is the main shareholder (the Greek State holds 55% of the shares, local authorities hold 25%, and KALLAS corporation holds 25%)	1.7.1999, 15.7.1999
Hellenic Centre for Marine Research	1	Public Law Legal Entity				
Greek National Tourism Organisation (EOT-GNTO)	1	Public Law Legal Entity			The GNTO was included in the group of public entities (public law and private law) that would be converted to public anonymous companies under the law 2414/1996. However, it remained a public law legal entity (Presidential Decrees 365/1997, 343/2001)	22.10.2001
Athens Business Chamber	1	Public Law Legal Entity				
Hellenic Competition Commission	2	Independent Authority				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Ministry of Agriculture						
Central Service	2	Public Service				
Company for Agricultural Development "Evritania SA"	2	Private Law Legal Entity	Public Anonymous Company Second Level Local Government Enterprise		Founded in 1978 by the Agricultural Bank of Greece and the Greek Industrial Development Bank for the development of the region of Evritania. In 1998, it passed under the authority of the Prefectural self-administration (Second Level Local Government) of Evritania which kept the majority of the shares (70,34%).	23.4.1998, 15.6.1999
Agricultural Insurance	1	Private Law Legal Entity	Public Anonymous Company Subsidiary of a public bank		Founded in 1980 as a subsidiary of the public Bank "Agricultural Bank of Greece". In 1999 the company entered the Athens Stock Exchange. Source: The official website of Agricultural Insurance, available at: http://www.ateinsurance.gr/Company/Pages/default.aspx , date of access: 5.3.2011	29.12.2000
PINDOS SA	1	Private Law Legal Entity	Public Anonymous Company		Founded around 1989, the company pertained to the State through the Agricultural Bank of Greece and the Greek Industrial Development Bank, whereas three agricultural cooperatives held 46,5% of the shares. The company was disbanded in December 2001, and sold in 2003. There was no legislative regulation for the transfer of the personnel to other services of the public sector. The unemployed personnel (100 persons) received an extraordinary financial support (733 EURO) and could participate in integration unemployment programmes (Government Gazette, vol. B, no 1811, 31.12.2001, Law 3144/2003).	14.12.2001

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Organisation for the Payment and Control of the European Community Aid, Orientation and Guarantees (OPEKEPE)	1	Private Law Legal Entity				
Greek Agricultural Insurance Organisation (ELGA)	1	Private Law Legal Entity				
Ministry of Development - Ministry of Agriculture						
Organisation of the Central Market of Athens (OKAA)	4	Private Law Legal Entity	Public Anonymous Company	Public Anonymous Company	1963: Public Law Legal Entity 1998: Public Anonymous Company (Presidential Decree: 286/21.12.1998) Conversion to an anonymous company according to the Law 2414/1996	10.2.1998, 4.10.1999, 31.1.2002
Ministry of Justice-Courts						
Office of the Prosecutor of the Hellenic Supreme Court of Civil and Penal Law	1	Public Service				
Court of First Instance of Thessaloniki	1	Public Service				
Court of First Instance of Athens	3	Public Service				
Ministry of Foreign Affairs						
Central Service	1	Public Service				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
National Foundation of Overseas Reception and Rehabilitation for Repatriated Expatriate Greeks (EIYAPOE)	10	Private Law Legal Entity	Public Benefit Non-Profit Foundation		Founded in 1990 and supervised by the Ministry of Foreign Affairs and the Ministry of Finance. It was disbanded in 2001 (Law 3072/2001), whereas the staff could be transferred to several Ministries under the working status of an employee of private law of indefinite time. However, its founding Presidential Decree as of 13.12.1990 (G.G. vol. B, no 782, 13.12.1990) provided that all the staff would be ipso iure fired from the body.	5.3.1998, 3.4.1998, 21.6.1999, 6.9.1999, 9.3.2001, 10.12.2001, 17.5.2002, 27.2.2003
Ministry of Health and Welfare						
Pension Fund of Motorists of the Prefecture of Serres	1	Public Law Legal Entity				
Tzaneio Regional General Hospital of Piraeus	1	Public Law Legal Entity				
Third Athens Hospital of Chronic Diseases	1	Public Law Legal Entity				
Regional General Hospital for Thoracic (Chest) Diseases "The Salvation" (Sotiria)	1	Public Law Legal Entity				
General Hospital "Evangelismos"	1	Public Law Legal Entity				
Foundation of Social Work	1	Private Law Legal Entity	Public Benefit Non-Profit Foundation			
Foundation of Social Security (IKA)	10	Public Law Legal Entity				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Centre for Infectious Diseases Control (KEELPNO)	2	Private Law Legal Entity			The personnel of KEELPNO was exempted from law 2190/1994	
Organisation Against Drugs	2	Private Law Legal Entity			The personnel of OKANA was exempted from law 2190/1994	
Athens Hospital of Chronic Diseases for Children	1	Public Law Legal Entity				
State Nursery Station of Rethymnon	1	Public Law Legal Entity			Nursery Stations are Public Law Legal Entities belonging to First Level Local Authorities	
Ministry of National Education and Religious Affairs						
Organisation for the Publishing of School Books	1	Public Law Legal Entity				
Technological Educational Foundation of Athens (TEI)	1	Public Law Legal Entity				
Athens School of Fine Arts	1	Public Law Legal Entity				
National Youth Foundation	3	Public Law Legal Entity				
Ministry of Defence						
Central Service	4	Public Service				
General Army Staff	9	Public Service				
General Navy Staff	5	Public Service				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
General Air Force Staff	5	Public Service				
Greek Arms Industry SA	3	Private Law Legal Entity	Public Anonymous Company			
Band Staff of the Minister of Defence (EPYETHA)	1	Autonomous Public Service			Founded in 1995 (Law 2292/1995), it is an organ under the direct authority of the Minister of Defence.	
Army Pension Fund	2	Public Law Legal Entity				
Prime Minister Secretariat of the Cabinet	2	Public Autonomous Service			The Secretariat of the Cabinet is an autonomous public service under the direct authority of the Prime Minister who appoints and dismisses its staff. The personnel of the Secretariat are appointed for a three-year mandate. The Prime Minister's decisions regarding their appointment and dismissal are published in the Government Gazette, and are effectuated by exemption from any other provision in force (Law 1558/1985, Acts of the Cabinet 154/13.12.1985, 65/23.5.1986)	
Ministry of the Interior Central Service	5	Public Service				
National Intelligence Service	1	Autonomous Public Service			The personnel of the National Intelligence Service was exempted from law 2190/1994	
Prefecture of Piraeus	2	Public Law Legal Entity				
Prefectural Self-Administration of Thessaloniki	1	Public Law Legal Entity				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Municipality of Egaleo	1	Public Law Legal Entity				
Municipality Pylareon of the island of Kefallonia	1	Public Law Legal Entity				
Municipality of Loutropolis (island of Lesbos)	1	Public Law Legal Entity				
Municipality of Agii Theodori (Prefecture of Corinth)	1	Public Law Legal Entity				
Municipality of Athens	1	Public Law Legal Entity				
Municipality of Elliniko	1	Public Law Legal Entity				
Prefectural Self-Administration of Kefallonia-Ithaka	1	Public Law Legal Entity				
Prefecture of Athens	1	Public Law Legal Entity				
National Centre of Public Administration	1	Public Law Legal Entity				
Centre for Vocational Training and Research of the Prefecture of Magnesia	1	Private Law Legal Entity	Public Anonymous Company		Local government enterprises do not belong to the public sector (Law 1892/1990)	
Ministry of Press and Mass Media						
Greek Radio and Television SA	1	Private Law Legal Entity	Public Anonymous Company			

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Ministry of Finance						
Centre of Innovation SA (KEKA)	2	Private Law Legal Entity	Public Anonymous Company		Disbanded in 1996 (Law 2436/21.8.1996). The Law provided that the staff would be transferred to the other services of the public sector	23.4.1997
Shipyards of Elefsina SA	5	Private Law Legal Entity	Public Anonymous Company		Founded in 1969 by the shipowners Andreadis, they pass under the control of the Greek State from 1975 until 1992. They were sold in 1992, and resold in 1997. The staff could be transferred to other services of the public sector pursuant to the specific procedure provided for in article 20 of the Law 2414/25.6.1996.	2.7.1997
Hellenic Shipyards SA	2	Private Law Legal Entity	Public Anonymous Company		Founded by Stavros Niarchos, the Company was bought by the Greek Industrial Development Bank in 1985. In 1995 the Company was privatized by 50% under the form of a cooperative. The staff could be transferred to other services of the public sector pursuant to the specific procedure provided for in article 13 of the Law 2367/29.12.1995.	24.6.1998
National Statistical Service of Greece	4	Private Law Legal Entity				
Export Credit Insurance Organisation	3	Private Law Legal Entity				
Economic and Social Committee	1	Private Law Legal Entity				
Hellenic Aerospace Industry SA	1	Private Law Legal Entity	Public Anonymous Company			
Securities and Exchange Commission	1	Public Law Legal Entity				

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Ministry of Employment and Social Protection						
Computer Centre for Social Services	8	Private Law Legal Entity			Founded in 1969 (Legislative Decree 390/1969) as a private law legal entity, it was converted to an anonymous public company in 2007 (Law 3607/2007)	17.5.1999, 21.6.2002, 11.6.2004, 2.7.1997
Traders' Insurance Fund	5	Public Law Legal Entity				
Insurance Fund of Professionals and Craftsmen	3	Public Law Legal Entity				
Supplementary/Auxiliary Security Fund for Employees of Pharmaceutical Operations	1	Public Law Legal Entity				
Welfare Fund of Public Works Contractors	1	Public Law Legal Entity				
Civil Servants' Welfare Fund	1	Public Law Legal Entity				
Ministry of Culture						
Central Service	1	Public Service				
Ministry of Transport and Communications						
Hellenic Railways Organisation SA	1	Private Law Legal Entity	Public Anonymous Company		Special provisions for the transfer of surplus personnel to other services of the public sector, independent authorities included pursuant to article 12 of Law 2671/1998	1.7.1999

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Olympic Airways SA	4	Private Law Legal Entity	Public Anonymous Company		Founded by Aristotelis Onassis in 1957, the company will pass under the control of the Greek State in 1975. It was finally privatized in 2009, after previous unsuccessful privatization efforts during the last decade.	1.7.1999, 14.12.2001, 5.6.2002, 16.7.2002, 27.9.2005
Olympic Aviation SA	1	Private Law Legal Entity	Public Anonymous Company		Since 2003 until the privatization of Olympic Airways the company operated as a subsidiary of Olympic Airways - Services and provided technical support to aircrafts and helicopters, helicopter chartering, pilots training, and ground support services.	27.9.2005
Olympic Catering SA	1	Private Law Legal Entity	Public Anonymous Company		Subsidiary of Olympic Airways, it was founded in 1976 as a public anonymous company, and was privatized in 2002.	18.7.2002
Olympic Airways-Services SA	1	Private Law Legal Entity	Public Anonymous Company		It was created in 2003 as a result of the restructuring scheme of Olympic Airways dictated by the European Commission. The Olympic Airways Group was divided into two groups: Olympic Airlines, which took up flight operations, and Olympic Airways-Services, which provided ground handling services.	
Thermal Bus Company/SA (ETHEL)	1	Private Law Legal Entity	Public Anonymous Company			
Greek Post S.A. (ELTA)	5	Private Law Legal Entity	Public Anonymous Company		Since 1970 the Greek Post S.A. operates as a public anonymous company pursuant to the Legislative Decree 496/1970	
Greek Postal Savings Bank SA	1	Private Law Legal Entity	Public Anonymous Company		Founded in 1909 as a decentralised public service, it was converted to a public anonymous company (Law 3082/2002)	30.5.2001

Agency by Supervising Ministry	Persons transferred	General Legal Status of the agency (public law or private law legal entity)	Type of private law legal entity	Legal Status of the Agency by the time of the transfer	Further information on the status of the releasing agencies before, during or after the transfer	Dates of transfers
Ministry of Commercial Shipping						
Piraeus Port Authority SA	1	Private law legal entity	Public Anonymous Company		Founded in 1930 as a public law legal entity, it was converted to a public anonymous company (Law 2688/1999)	1.7.1999
Hellenic Telecommunications and Post Commission	1	Independent Authority				
Ministry of Environment, Planning, and Public Works						
Anonymous Company for the Exploitation and Management of Greek Highways (TEO SA)	3	Private Law Legal Entity	Public Anonymous Company		Founded in 1929 as a public law legal entity, it was converted to a public anonymous company pursuant to Law 2938/2001. The company was privatized in 2007 (Law 3555/2007)	17.5.2002, 30.12.2005
Ministry of Public Order						
Central Service	3	Public Service				
Ministry of Culture and Ministry of Finance						
Foundation of Mediterranean Studies	2	Private Law Legal Entity	Public Benefit Non-Profit Foundation			

Table 4 The specialization of the transferred personnel (Category and Branch)

<i>Transferred personnel's Categories and Branches</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	79
U.E. Administration	11
U.E. Informatics	9
T.E. Administration-Accounting	13
T.E. Administration	1
T.E Informatics	3
S.E. Administration	30
S.E. Typists	9
S.E. Typists-Word Processing	4
S.E. Computer Programmers-Operators	2
S.E. Computer Programmers	5
S.E. Computer Operators	24
C.E. Auxiliary Staff	7
C.E. Cleansing Staff	2
C.E. Caretakers	1
Total	200

Table 5 Reclassification from one Branch to another within the same Category

Number of employees	Former Branch	New Branch
6	S.E. Typists	Computer Operators
1	S.E. Administration	Computer Programmers
1	S.E. Typist	S.E. Administration
1	S.E. Driver	S.E. Administration

Table 6 Reclassification to a branch in a superior Category

Number of employees	Former Category and Branch	New Category and Branch
2	S.E. Typists	U.E. Administration-Finance
5	S.E. Administration	U.E. Administration-Finance
1	S.E. Administration	T.E. Administration-Accounting
5	C.E. Auxiliary Personnel	S.E. Administration

Table 7 Mobility of the transferred personnel after the transfer

Type of mobility of the personnel after the transfer	Number of employees	Service of new appointment/transfer/secondment
New appointments	1	Teacher in Primary Education
Appointment as member of the management board of the Supreme Council for the Selection of Personnel	1	Since 1998 Councillor of Asep. First elected as Councilor through the co-optation system (G. G. vol. C, no 20, 9.02.1998) while keeping the post of Director General of the Secretariat. The mandate as Director General was irregularly renewed until 2003. Appointed as Councillor by the Conference of Presidents (Government Gazette vol. B, no 486, 21.4.2003). The mandate was renewed in 2006 (Government Gazette, vol. B, no 953, 19.7.2006). She was replaced in 2011 (Government Gazette, vol. YODD, no 55, 8.3.2011)
Transfers	7	<ul style="list-style-type: none"> - Hellenic Parliament (1) - Region of Epirus (1) - Region of Central Macedonia (1) - Office of the Directorate of Secondary Education of the island of Lesbos (1) - Ministry of Finance (2) - Prefecture of Fthiotida (1)
Secondments	4	<ul style="list-style-type: none"> - Political Bureau of the Minister of Finance (1) - On secondment to the Office of Organisation and Management of the Prime Minister (1998-2003) Secondment to the General Secretariat of the Cabinet as Special Collaborator (2003-2004) (1) - Secondment to the National Statistical Service of Greece (2008-), Source: Diavgeia, available at: static.diavgeia.gov.gr/doc/4AΓΞ6ΣI-Y, date of access: 12.4.2011 - Secondment to the Special Managing Service of the Operational Programme "Administrative Reform 2007-2013" at the Ministry of the Interior 2008- Head of Unit A2 (G.G. vol. YODD, no 529, 23.12.2008, no 49, 11.2.2009, no 28, 1.2.2010)

Source: The Government Gazette, Programme "Clarity" (diavgeia)

Table 8 Seconded employees to the Supreme Council for the Selection of Personnel (1994-31.10.2010)

Year	Category				Total number of seconded employees
	U.E.	T.E.	S.E.	C.E.	
1994	4	-	-	-	4
1995	8	1	5	-	14
1996	13	-	11	1	25
1997		The category is not indicated			26
1998		The category is not indicated			26
1999		The category is not indicated			40
2000		The category is not indicated			37
2001	12	1	24	2	39
2002	7	3	20	2	32
2003	2	1	22	3	28
2004	7	2	25	3	37
2005		The category is not indicated			43
2006		The category is not indicated			43
2007		The category is not indicated			44
2008		The category is not indicated			43
2009		The category is not indicated			54
2010		?			?

Source: The Annual Reports (1994-2010)

Text 4: Presentation of the public announcements for the selection of the administrative personnel through direct hiring

The first public announcement regarding the direct hiring of administrative personnel to the Secretariat of the authority was published in the government gazette in 2003¹⁰⁵⁰. The 21 vacant positions of the organisational chart to be filled were distributed as follows: 13 U.E. Administration-Finance, 2 U.E. Informatics, 2 T.E. Administration-Accounting, 2 T.E. Informatics, and 2 S.E. Typists. The candidates for the categories of University and Technological Education were selected by a three-member committee constituted by the Supreme Council for the Selection of Personnel pursuant to par. 1 of article 4 of the law 3051/2002.

The public announcement defined the special appointment qualifications, that is, the required diplomas corresponding to each educational category, the required additional qualifications, that is, the good knowledge of computer programmes (word and excel), and the optional additional qualifications, that is, postgraduate and PhD degrees, knowledge of foreign languages, and experience for the position¹⁰⁵¹. The selection committee judged and defined its decision based on the graduate and postgraduate degrees, the grades of these diplomas, the knowledge of foreign languages, the experience, if there was any, the scientific works, and other relevant activities of the candidates as well as the results from the personal interview of each one of them with the committee. Contrary to the positions of secondary education, where each one of the selection criteria was awarded points which were explicitly presented in tables in the public announcement, no such grading system was provided for the positions of university and technological education.

The second public announcement was published in the government gazette in 2006¹⁰⁵².

The 10 vacant positions of the organisational chart to be filled were distributed as follows: 7 U.E. Administration-Finance, and 3 U.E. Informatics. This time the criteria were explicitly defined, whereas a grading system for these criteria was adopted. Apart from the main university degree, the additional required qualifications for the positions of the category and branch U.E. Administration-Finance were classified as follows: i) a postgraduate degree in the field of public or private law (4 positions), ii) a postgraduate degree in the field of business administration (1 position), iii) a postgraduate degree in public relations or a two-year experience in public relations, and iv) a postgraduate degree in the field of statistics (1 position). The knowledge of word processing, excel, and internet were also additional required qualifications.

Apart from the main university degree, the additional required qualifications for the positions of the category and branch U.E. Informatics were classified as follows: i) at least a three-year experience in SQL, PLSQL, ORACLE, BACK-UP Recovery, Data Base Administration, ii) at least a three-year experience in Oracle Programming (SQL-PLSQL, DEVELOPER SUITE), iii) at least a three-year experience in

¹⁰⁵⁰ Public Announcement 1/2003, Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 532, 17.10.2003.

¹⁰⁵¹ The candidates who did not fulfill the preconditions of the necessary diplomas and the knowledge of computer programmes were excluded from the procedure.

¹⁰⁵² Public Announcement 13/2006, Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 629, 20.12.2006.

Administration in UNIX or SOLARIS. The knowledge of foreign languages and previous experience in the public or private sector were equally assessed. Interestingly enough, candidates who had previous relevant experience equal to or more than two years in various agencies of the public sector would receive grades increased by 50%. Finally, a public interview was provided for the preselected candidates.

The third public announcement was published in the government gazette in 2008¹⁰⁵³. The 7 vacant positions of the organisational chart to be filled were distributed as follows: 4 U.E. Administration-Finance, and 3 S.E. Administration. The criteria were explicitly defined, whereas a grading system for these criteria was adopted. Apart from the main university degree, the additional required qualifications for the positions of the category and branch U.E. Administration-Finance were as follows: i) the knowledge of word processing excel, and internet, ii) a postgraduate degree in workforce management or the administration of human resources, and iii) at least one-year experience in personnel assessment. Finally, an interview was provided for the preselected candidates of this category. The knowledge of foreign languages and previous experience in the public or private sector were equally assessed. Candidates who had previous relevant experience equal to or more than two years in various agencies of the public sector would receive grades increased by 50%.

Interestingly enough, the fourth public announcement was published in the government gazette on December 30, 2009¹⁰⁵⁴, namely after the outbreak of the Greek debt crisis. All public announcements for appointments in the public sector had been annulled with the exception of the personnel for hospitals, and the police. The 19 vacant positions of the organisational chart to be filled were distributed as follows: 5 U.E. Administration-Finance, 1 T.E. Administration-Accounting, 2 T.E. Informatics (Software), 1 T.E. Informatics (Hardware), 5 S.E. Administration, and 5 S.E. Computer Operators. The criteria were explicitly defined, whereas a grading system for these criteria was adopted. Nevertheless, only the knowledge of word processing, excel, and internet were considered as additional required qualifications for the 5 positions of U.E. Administration-Finance. Specific fields of postgraduate degrees were not defined. Postgraduate degrees and PhDs within the subject matter of the position or any other field would be rated, whereas previous experience, the knowledge of foreign languages, and the candidates' performance at the special writing skills test would be equally assessed for the categories of University and Technological Education. Other required additional qualifications were defined for the category of Technological Education¹⁰⁵⁵. No interview was provided for the

¹⁰⁵³ Public Announcement 11/2008, Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 689, 29.12.2008.

¹⁰⁵⁴ Public Announcement 6K/2008, Government Gazette, vol. Supreme Council for the Selection of Personnel (ASEP), no 689, 29.12.2008. The acts of appointment of those who had succeeded in the procedure of the public announcement 6K/2008 had not been published in the government gazette by 31.12.2010.

¹⁰⁵⁵ The required additional qualifications were as follows: i) the knowledge of word processing, excel, and internet for the position T.E. Administration-Accounting, ii) at least one-year experience in programming environment ORACLE RDBMS (PL/SQL) and the tools ORACLE FORMS BUILDER and REPORTS BUILDER for the position T.E. Informatics (Software), iii) at least one-year experience in computer networks, structured cabling and systems Windows and Unix for the position T.E. Informatics (Hardware), and iv) at least two-year experience in the design and programming of multilevel web applications (multi-tier web-bases applications) in UNIX-LINUX environment with technologies (JAVA, JSP, JDBC, XML, XSL, HTML/CSS, OC4J, PORTLET, SERVLET, HIBERNATE).

categories of University and Technological Education. Finally, in our opinion, the percentage of secondary education positions to be filled, as provided for in the third and fourth public announcements, was unjustifiably high.

Table 9 The specialization of the directly hired personnel (Category and Branch)

<i>Newly hired personnel's Categories and Branches</i>	<i>Number of newly hired personnel by Category and Branch</i>
U.E. Administration-Finance	27
U.E. Informatics	5
T.E. Administration-Accounting	3
T.E Informatics	1
S.E. Administration	4
S.E. Typists	2
Total	42

Finally, Tables 10 and 11 show the level of education and the specialisation of the total number of the administrative personnel, transferred and newly hired. A third of the administrative personnel are secondary education graduates, whereas the exact number of master degree holders may not be defined.

Table 10 Level of education of the total number of the administrative personnel by category

	<i>University Education</i>	<i>Technological Education</i>	<i>Secondary Education</i>	<i>Compulsory Education</i>
% of the administrative personnel by level of education	54% (131 of 242)	9% (21 of 242)	33% (80 of 242)	4% (10 of 242)

As for their specialisation, the overwhelming majority of University Education graduates pertain to the category of Administration-Finance, whereas a large number of secondary education graduates pertain to the categories of computer programmers, computer operators, and typists.

Table 11 The specialization of the total number of the administrative personnel

<i>Administrative personnel's Categories and Branches</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	117
U.E. Informatics	14
T.E. Administration-Accounting	16
T.E Informatics	4
S.E. Administration	35
S.E. Typists	15
S.E. Computer Programmers	7
S.E. Computer Operators	24
C.E. Auxiliary Staff	7
C.E. Cleansing Staff	2
C.E. Caretakers	1
Total	242

Finally, Table 12 shows the gender distribution of the personnel by category, whereas the total gender distribution is as follows: 175 women (69%), and 79 men (31%).

Table 12 Gender distribution by category of personnel

	<i>Transferred personnel</i>		<i>New appointments</i>		<i>Specialized Scientific Personnel</i>	
% of gender distribution by category of personnel	Men	Women	Men	Women	Men	Women
	33%	67%	24%	76%	33%	67%
	65	135	10	32	4	8

APPENDIX 9

Complementary tables on the Hellenic Data Protection Authority

Table 1 The specialization of the administrative personnel

<i>Categories and Branches of the administrative personnel</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	5
U.E. Communication	7
U.E. Informatics	1
T.E Informatics	2
S.E. Administration	7
S.E. Drivers	1
S.E. Telephone-Operators	1
C.E. Cleansing Personnel	2
C.E. Curators	2
Total	28

Source: The Government Gazette

Table 2 Reclassification to a branch in a superior Category

Number of employees	Previous Branch	New Branch
1 (AP3)	C.E. Curator	S.E. Telephone Operator (the position was created in 2004 with the amendment of the Organisational Chart of 1998).
1 (AP15)	C.E. Curator	S.E. Driver (the position was created in 2004 with the amendment of the Organisational Chart of 1998).
1 (AP9)	U.E. Management	U.E. Legal Auditor, in-service transfer pursuant to article 9 of the Organisational Chart (Presidential Decree 207/1998)

Source: The Government Gazette

Table 3 The Auditors' career paths after their resignation from the authority

<i>Number of Auditors</i>	<i>The Auditors' career paths</i>
1 (SP8)	Free-lance lawyer
1 (SP16)	Member of the Teaching Staff at the Law Department of the American University in Cairo as the Richard A. Bartlett Yale Law School Fellow in Law (2008-2010) Political Appointee as Head of the Office for International and European Union Issues at the General Secretariat of the Government (2009-)
1 (SP17)	Member of the Scientific Personnel of the Greek Ombudsman
1 (SP21)	Parliamentary Candidate with the party of New Democracy in the national elections of 2007, Adjunct Professor, Appointee in various Committees
1 (SP18)	Lawyer at a German Law Firm
1 (SP14)	Lecturer at the Department of Mathematics of the University of the Aegean
1 (SP2)	Officer of the Data Protection Unit of EUROPOL
1 (SP33)	PhD Candidate at the Centre for Studies and Research in Public Economic Law at Sorbonne-Paris
1 (SP31)	Notary
1 (SP28)	Unknown

Source: The Government Gazette, and various websites through the google search engine

Table 4 The Auditors' career paths after their denial to assume duties

Number of The Auditors' career paths

<i>Auditors</i>	
1 (SP9)	Hellenic Telecommunications Organisation
1 (SP22)	Free-lance Lawyer
1 (SP25)	Associate Professor at the Greek Military Academy
1 (SP24)	Special Scientific Personnel at the Informatics (ICT) Development Agency of the General Secretariat of Public Administration and Electronic Governance at the Ministry of Interior
1 (SP29)	Member of the Special Scientific Personnel at the Ministry of Finance

Source: The Government Gazette, and various websites through the google search engine

Table 5 The level of education of the Auditors serving in the authority by 31.12.2010

Auditors' Specialty/Specialization	Postgraduate degrees	PhD degrees
Legal Auditors	9	7
Informatics Auditors	6	5

Table 6 The level of education of the Auditors who resigned or denied the appointment

Auditors' Specialty/Specialization	Postgraduate degrees	PhD degrees
Legal Auditors	6	4
Informatics Auditors	1	4

Appendix 10

Complementary tables on the Greek Ombudsman

Table 1 Active secondments of the administrative personnel by 31.12.2010

<i>Period of secondment</i>	<i>Code of the seconded employees</i>	<i>Category and Branch</i>	<i>Agency of provenance</i>
1998-31.12.2010	SAP8	U.E. Administration-Finance	General Hospital of Athens “Laiko”
2000-9.11.2010	SAP27	T.E. Administration-Accounting	Agricultural Security Organisation
2001-31.12.2010	SAP31	S.E.?	Agricultural Security Organisation
2002-31.12.2010	SAP35	S.E.?	Ministry of Public Order
2003-31.12.2010	SAP38	U.E. Archaeologist	Credit Management Fund for the Implementation of Archaeological Projects (Private Law Legal Entity supervised by the Ministry of Culture)
2003-31.12.2010	SAP40	S.E. Drivers	Electric Buses of Athens-Piraeus
2004-31.12.2010	SAP41	S.E. Drivers	Ministry of the Interior, Public Administration and Decentralisation
2004-31.12.2010	SAP42	U.E. Engineers	Region of Attica
2005-31.12.2010	SP43	U.E. Librarian	Athens University
2006-31.12.2010	SP49	S.E.?	Athens Water Supply and Sewerage Company (EYDAP SA)

SAP: Seconded Administrative Personnel, 10 employees in total

Source: The Annual Reports of the Greek Ombudsman (1998-2010)

Table 2 Revoked secondments of the administrative personnel

<i>Period of secondment</i>	<i>Code of the seconded employees</i>	<i>Category and Branch</i>	<i>Agency of provenance</i>
1998-2006	SAP2	C.E. Usher	Ministry of the Interior
1999-2006	SAP10	C.E. Usher	Ministry of the Interior
1998-2004	SAP3	S.E. Drivers	Ministry of the Interior
1998-2003	SAP5	S.E. Drivers	Ministry of the Interior
1998-1999	SAP4	S.E.?	Ministry of the Interior
2000-2001	SAP26	S.E.?	Ministry of Health
2002-2004	SAP36	S.E. Administration-Accounting	Hellenic Data Protection Authority
1998-1999	SAP7	T.E.?	Fund of Merchants and Craftsmen
2000-2003	SAP29	T.E.?	National Statistical Service of Greece
1999-2000	SAP9	U.E.?	Ministry of Foreign Affairs
1999-2003	SAP11	U.E.?	Prefecture of Piraeus
2000-2002	SAP22	U.E.?	Ministry of Development
		National School of Public Administration Graduate	
2000-2001	SAP25	U.E.?	Ministry of National Economy
2001-2002	SAP30	U.E.?	Municipality of Egaleo
2002-2003	SAP34	U.E.?	Foundation of Social Security
2003-2007	SAP39	U.E. French language D.E.A degree	Teacher of French in Secondary Education 2 nd Highschool of Amphisssa

SAP: Seconded Administrative Personnel, 16 employees in total

Source: The Annual Reports of the Greek Ombudsman (1998-2010)

Table 3 Secondments converted to transfers

<i>Period of secondment</i>	<i>Year of transfer</i>	<i>Code of the seconded employees</i>	<i>Category and Branch</i>	<i>Agency of provenance</i>
2001-2003	2003	TAP33	C.E. Auxiliary Personnel	Prefectural General Hospital of Melissia “Amalia Fleming”
2000-2003	2003	TAP13	S.E. Administration-Accounting	Children’s Hospital “P. and A. Kyriakou”
2000-2003	2003	TAP14	S.E. Administration-Accounting	Prefectural Self-Administration of Athens-Piraeus. Prefectural Department of Piraeus
2000-2003	2003	TAP15	S.E. Administration-Accounting	National Institution for the Rehabilitation of the Handicapped
2000-2003	2003	TAP19	S.E. Administration-Accounting	General Hospital of Athens “Laiko”
2000-2003	2003	TAP21	S.E. Administration-Accounting	Foundation for Social Security
2000-2003	2003	TAP23	S.E. Administration-Accounting	Equity Aviation Fund
2001-2003	2003	TAP32	S.E. Administration-Accounting	Headquarters of the Greek Police
1998-2003	2003	TAP1	S.E. Typists	National Centre for Social Research
2000-2003	2003	TAP24	S.E. Computer Operators	Supplementary Insurance Fund of the Employees of Pharmaceutical Operations
1998-2003	2003	TAP6	T.E. Administration-Accounting	Pension Fund and Health Insurance of doctors, dentists, pharmacists, and veterinarians
2003-2008	2008	TAP37	T.E. Administration-Accounting	Prefectural Self-Administration of Athens-Piraeus
2000-2003	2003	TAP12	U.E. Administrative Organisation, Director of the Secretariat	Ministry of the Interior
2000-2003	2003	TAP16	U.E. Administration-Finance	Prefectural General Hospital of Melissia “Amalia Fleming”
2000-2003	2003	TAP17	U.E. Administration-Finance	Foundation for Social Security
2000-2007	2007	TAP18	U.E. Administration-Finance	Headquarters of the Greek Police
2000-2003	2003	TAP20	U.E. Communication	Ministry of Press and Mass Media
2000-2003	2003	TAP28	U.E. Informatics	Ministry of National Defence

TAP: Transferred Administrative Personnel, 18 employees in total

Source: The Annual Reports of the Greek Ombudsman (1998-2010), and the Government Gazette

Tables 4, 5, and 6 contain the following information regarding the total number of the 23 transferred employees, that is, those transferred through secondments, and those directly transferred: i) the employees' experience through the grades system, ii) employees' specialization and level of education, and iii) the employees' releasing agencies by categories. The majority of the transferred personnel, that is, 75% (17 of 23) are experienced since they possess grades A and B. As for their level of education, the number of secondary education graduates is unjustifiably high.

Table 4 The experience of the transferred personnel

	Grade A	Grade B	Grade C	Grade D	No grade
% of the transferred administrative personnel in relation to their grades	49% (11 of 23)	26% (6 of 23)	17% (4 of 23)	4% (1 of 23)	4% (1 of 23)

Source: The Government Gazette

Table 5 The level of education and specialization of the transferred administrative personnel

<i>Categories and Branches of the administrative personnel</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	6
U.E. Communication	1
U.E. Informatics	1
T.E. Administration-Accounting	4
S.E. Administration-Accounting	7
S.E. Typists	1
S.E. Auxiliary Personnel	3
Total	23

Source: The Government Gazette

The majority of the releasing agencies pertain to the category of hospitals, and social security-pension funds.

TABLE 6 The transferred personnel's agencies of provenance by categories

<i>The transferred personnel's agencies of provenance by categories</i>	<i>% Transferred personnel by category of agency</i>
Hospitals	25% (6 of 23)
Social Security-Pension Funds	22% (5 of 23)
Central Services of Ministries	13% (3 of 23)
Second-level local government agencies	9% (2 of 23)
Headquarters of the Greek Police	9% (2 of 23)
Various Public Law Legal Entities	9% (2 of 23)
Various Private Law Legal Entities	9% (2 of 23)
Autonomous Services	4% (1 of 23)

Source: The Government Gazette

Table 7 Reclassification from one Branch to another within the same Category

Number of employees	Current Branch	New Branch
1 (TAP24)	S.E. Administration-Accounting	S.E. Informatics

Table 8 Reclassification to a branch in a superior Category

Number of employees	Current Category and Branch	New Category and Branch
1 (TAP21)	S.E. Administration-Accounting	U.E. Administration-Finance
1 (TAP33)	C.E. Auxiliary Personnel	S.E. Administration-Accounting

Table 9 The specialization of the directly hired administrative personnel

<i>Categories and Branches of the administrative personnel</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	3
U.E. Communication	2
U.E. Informatics	2
T.E Informatics	2
C.E. Auxiliary Personnel	1
Total	10

Source: The Government Gazette

Table 10 The recruitment system of the Secretaries of the Ombudsman and the Deputy Ombudsmen

	New appointments	Secondments- Agencies of Provenance of the seconded Secretaries	Unknown
% of Secretaries by system of recruitment	71% (17 of 24)	21% (5 of 24)	8% (2 of 24)
		Ministry of Finance (S2) Ministry of the Interior (S4, S22) National Centre for Social Research (S8) Public Debt Management Organisation (S11)	

Source: The Annual Reports of the Greek Ombudsman

Table 11 Period of secondment and agencies of provenance of the seconded scientific personnel serving in the Greek Ombudsman by 31.12.2010

<i>Period of secondment</i>	<i>Code of the seconded members of the scientific personnel</i>	<i>Agency of Provenance</i>
1998-31.12.2010	SP6	Ministry of Finance
1998-31.12.2010	SP7	Prefecture of Athens
1998-31.12.2010	SP31	Ministry of Health
1998-31.12.2010	SP37	Ministry of Public Order
1998-31.12.2010	SP121	Ministry of the Interior, Public Administration and Decentralisation
1998-31.12.2010	SP38	Agricultural Security Organisation
1999-31.12.2010	SP88	Ministry of the Interior, Public Administration and Decentralisation
2001-31.12.2010	SP43	Ministry of Health
2001-31.12.2010	SP45	National Statistical Service of Greece
2001-31.12.2010	SP46	Ministry of Development
2001-31.12.2010	SP91, SP90	Ministry of Environment, Planning and Public Works
2001-31.12.2010	SP132, SP133	Ministry of Finance
2002-31.12.2010	SP190	Ministry of Culture
2002-31.12.2010	SP93	Ministry of Defence
2006-31.12.2010	SP182	Ministry of the Interior, Public Administration and Decentralisation
2006-31.12.2010	SP58	Security Fund of Marine Agents and Employees
2006-31.12.2010	SP181	Region of Attica
2006-31.12.2010	SP154	Ministry of Finance
2006-31.12.2010	SP16	Corps of Labour Inspection
After 2007-31.12.2010	SP183	Region of Attica
After 2007-31.12.2010	SP189	Ministry of Employment

Source: The Annual Reports

Table 12 Agencies of provenance of the terminated or revoked secondments of the scientific personnel

<i>Period of secondment</i>	<i>Code of the seconded members of the special scientific personnel SSP*</i>	<i>Agency of provenance of the seconded members of the scientific personnel</i>
1998 Annuled	SSP3	Ministry of the Interior, Public Administration and Decentralisation
1998 Annuled	SSP4	Ministry of Development
1998 Annuled	SSP126	Ministry of Finance
1998-1999	SSP5	National Statistical Service of Greece
1998-2001	SSP32	Ministry of Finance
1998-2000	SSP155	Ministry of Finance
1998-2004	SSP33	Ministry of the Interior, Public Administration and Decentralisation
1998-2005	SSP34	Agricultural Security Organisation
1998-2002	SSP75	Constructions EKTENEPOL (Subsidiary of the National Bank of Greece)
1998-2004	SSP77	Civil Aviation Authority
1998-2001	SSP79	Ministry of the Interior, Public Administration and Decentralisation
1998-2004	SSP81	Ministry of the Environment, Planning and Public Works
1998-2003	SSP118	Ministry of the Interior, Public Administration and Decentralisation
1998-1999	SSP122	Ministry of the Interior, Public Administration and Decentralisation
1998-2001	SSP123	Agricultural Bank of Greece
1998-2000	SSP125	Teacher in Secondary Education
1998-2007	SSP127	Ministry of the Environment, Planning and Public Works
2001-2010	SSP12	Ministry of Finance
2006-2010	SSP173	Member of the Special Scientific Teaching Personnel of the Ionian University

*SSP: Seconded Special Scientific Personnel

Table 13 Resigned members of the scientific personnel appointed to Higher Education Institutions

<i>Year of appointment/ Code of the member</i>	<i>Higher Education Institutions</i>
2001 (SP1)	Lecturer at the Department of Political Science and Public Administration, Athens University
2001 (SP119)	Lecturer at the Department of Sociology, University of the Aegean
2003 (SP131)	Lecturer at the Department of Political Science and History, Panteion University of Social and Political Sciences
2003 (SP134)	Lecturer at the Department of Law, Athens University
2005 (SP135)	Lecturer at the Department of Balkan, Slavic and Oriental Studies, University of Macedonia
2005 (SP144)	Assistant Professor at the Department of Business Administration, University of the Aegean
2007 (SP35)	Lecturer at the General Department of Law, Panteion University of Political and Social Sciences
2007 (SP137)	Assistant Professor at the Department of Electricity of the Technological Educational Institution of Chalkida
2007 (SP167)	Lecturer at the Department of Psychology, University of Crete
2008 (SP145)	Lecturer at the Department of Informatics with Applications in Biomedicine, University of Central Greece
2009 (SP14)	Assistant Professor at the Department of Law, University of Cyprus
2009 (SP92)	Lecturer at the Department of Law, University of Cyprus
2010 (SP98)	Lecturer at the Department of General Law, Panteion University of Political and Social Sciences
2010 (SP9)	Assistant Professor at the Department of Law, Aristotle University of Thessaloniki
2011 (SP27)	Lecturer at Harvard University

Source: The Government Gazette and google search engine

Table 14 Resigned members of the special and auxiliary scientific personnel hired to other positions of the public sector

<i>Year of appointment/ Code of the member</i>	<i>New Position in the public sector</i>
1999 (SP82)	Member of the special scientific staff at the National Council for Radio and Television
1999 (ASP100)	Appointed to the Greek Agricultural Insurance Organisation as U.E. Agronomist
2000 (ASP153)	Appointed to the Ministry of Finance as U.E. Tax Officer
2000 (SP87)	Appointed to the Ministry of Finance as U.E. Engineers
2000 (ASP60)	Appointed to the Ministry of Finance as U.E. Tax Officer
2000 (SP40)	Appointed to the Special Legal Service of the Ministry of Foreign Affairs
2000 (SP85)	Appointed to the Special Legal Service of the Ministry of Foreign Affairs
2000 (ASP103)	Legal Collaborator (tenured position) at the Ministry of the Interior
2000 (SP129)	Special Collaborator at the Ministry of Culture (2000-2004) Since 2004, lawyer with a salary mandate at the Regulatory Authority for Energy (RAE)
2002-2006	Member of the Staff of the Management Organisation Unit of Development Programmes (MOU) S.A. supervised by the Ministry of Finance (April 2002), Legal Adviser at the Managing Authority of the Operational Programme "Education and Initial Vocational Training" of the Ministry of National Education and Religious Affairs (October 2005),
2006-2010 (SP84)	Prefect of Magnessia in the Prefectural and Municipal Elections of 2006
2002 (ASP156)	Appointed to the Regulatory Authority for Energy (RAE)
2004 (SP130)	Appointed to the Ministry of Finance as U.E. Customs
2004 (ASP74)	Appointed to the Ministry of Transport as U.E. Chemist
2005 (ASP115)	Judge at the Council of State
2005 (ASP163)	Researcher of Grade C at the Hellenic Centre for Marine Research
2006 (SP21)	Director of the Sector for the Protection of Refugees at the United Nations Refugee Agency in Athens
2007 (SP52)	Lawyer with a salary mandate at the General Hospital of Athens "Hippokrateion"
2007 (ASP178)	Judge at the Council of State
2007 (SP70)	Judge at the Court of Audit

Source: The Government Gazette and google search engine

Table 15 Secondments of the scientific personnel to political positions

<i>Period of secondment</i>	<i>Code of the seconded members of the scientific personnel</i>	<i>Position</i>
2001-?	SP29	President of the Second Regional Health Council of South Aegean
2003-2004	SP101	Secondment to the Bureau of the Secretary General of the Ministry of National Education and Religious Affairs as Head of the Bureau
2004-2009	SP8	Special Collaborator at the General Secretariat of the government
2004-2005	SP36	Seconded to the Political Bureau of the Minister of Development (2004)
2005-2010		Deputy Ombudswoman of the Consumer
2004-2007	SP66	Seconded to the Political Bureau of the Minister of Health and Social Solidarity
2007-2010		Legal Advisor of the Mayor of Athens
2005-2007	SP52	Seconded as Special Adviser of the Minister of the Interior, Public Administration and Decentralization
2009-	SP2	Special Advisor at the Political Bureau of the Prime Minister Georgios Papandreou
2009-	SP71	Seconded to the Political Bureau of the Minister of Health and Social Solidarity
2009	SP86	Seconded to the Political Bureau of the Deputy Minister of Foreign Affairs
2009-	SP11	Seconded to the Political Bureau of the Minister of Finance as Director
2010	SP78	Seconded as Special Adviser to the Bureau of the Minister of Environment, Energy and Climatic Change as Special Adviser
2010	SP10	Secretary General for Migration Policy at the Ministry of the Interior, Decentralization and Electronic Governance
2010-	SP28	Seconded as Advisor of the Secretary General for Migration Policy (renamed Secretary General for Population and Social Cohesion, G.G. vol. A, no 170, 28.9.2010)

Source: The Government Gazette and google search engine

Table 16 Secondments of the scientific personnel to other public services

<i>Period of secondment</i>	<i>Code of the seconded members of the scientific personnel</i>	<i>Position</i>
2003-2005	SP124	Seconded to the Bureau of the Inspector General of Public Administration
2004-	SP159	Seconded to the Bureau of the Inspector General of Public Administration
2007-	SP120	Seconded to the Bureau of the Inspector General of Public Administration

Source: The Annual Reports of the Inspector General of Public Administration

Appendix 11

Complementary tables on the Hellenic Authority for Communication, Security, and Privacy

Table 1 The specialization of the administrative personnel

<i>Categories and Branches of the administrative personnel</i>	<i>Number of personnel by Category and Branch</i>
U.E. Administration-Finance	2
T.E Administration-Accounting	3
T.E. Technological Applications	6
S.E. ?	5
S.E. Drivers	1
C.E. Auxiliary Personnel	1
Total	17

Source: The Government Gazette

Table 2 The Administrative Personnel's career paths after their resignation from the authority

<i>Code and Number of Personnel</i>	<i>Category and Branch in the authority</i>	<i>The Administrative Personnel's career paths</i>
1 (AP10)	S.E.?	Teacher of Physical Education in Secondary Education
1 (AP14)	C.E. Auxiliary Personnel	Piraeus Administrative Court of First Instance
1 (AP21)	S.E.?	Ministry of Finance

Source: The Government Gazette

Table 3 The career paths of the Administrative Personnel who denied their appointment to the authority

<i>Code and Number of Personnel</i>	<i>Category and Branch according to the appointment decisions in the government gazette</i>	<i>The Administrative Personnel's career paths</i>
1 (AP4)	T.E. Technological Applications	Ministry of Defence-General Army Staff
1 (AP13)	S.E. Driver	Ministry of Environment, Planning and Public Works
1 (AP22)	S.E.?	Deposits and Loans Fund (Public Law Legal Entity) Ministry of Finance

Source: The Government Gazette

Table 4 The Scientific Personnel's career paths after their resignation from the authority

<i>Number of Auditors</i>	<i>The Auditors' career paths</i>
1 (SP3)	Lecturer at the Department of Informatics, University of Piraeus
1 (SP5)	Executive Position in the Private Sector: Director of Access Backbone Networks, Ontelecoms, a Greek Telecommunications Company
1 (SP10)	Lecturer at the Department of Information Transmission Systems and Material Technology, National Technical University of Athens
1 (SP13)	Unknown

Source: The Government Gazette, and various websites through the google search engine

Table 5 The career paths of the Scientific Personnel who denied their appointment to the authority

Number of The Auditors' career paths
Auditors

1 (SP1)	Simply submitted the candidacy, and denied the appointment. He was already member of the scientific staff of the Hellenic Telecommunications and Post Commission (2001-2008). He was elected Assistant Professor at the Technological Educational Institute of the Ionian Islands in 2008
1 (SP11)	Head of Administration at the European Network and Information Security Agency
2 (SP2), (SP20)	Unknown

Source: The Government Gazette, and various websites through the google search engine

Table 6 The level of education of the scientific personnel serving in the authority by 31.12.2010

Unknown	Postgraduate degrees	PhD degrees
38% (5 of 13)	8% (1 of 13)	54% (7 of 13)

Table 7 The level of education of the scientific personnel who resigned or denied the appointment

Unknown	Postgraduate degrees	PhD degrees
29% (3 of 8)	-	71% (5 of 8)

Appendices

Chapter 4

APPENDIX 1

Text 1

Theoretical approaches regarding the control of the constitutionality of laws by the independent authorities and the case of the Supreme Council for the Selection of Personnel

The views expressed by legal theorists opposed to the control of the constitutionality of laws by the administrative organs are based on arguments arising from the combined interpretation of certain provisions of the Constitution. Following the principle of the legality of the Administration¹⁰⁵⁶, and the constitutional principle of the rule-of-law state¹⁰⁵⁷, the Administration is bound by the law and has to implement it since neither the Constitution nor the law assigns it the competence to control the constitutionality of a law in its implementation. This argumentation is combined with the exclusive assignment of the control of the constitutionality of laws to the judiciary on the one hand, and the presumption of the constitutionality of the law according to which the law is judged unconstitutional and is applied by the Administration until it is ruled unconstitutional by the competent court (Vogiatzoglou, 2005; Mathioudakis, 2006). In other words, the Administration, bound by the principle of the legality, cannot interpret the constitutional *dicta*; it simply implements the law.

Interestingly enough, the supporters of the positive approach, that is, the right of the control of the constitutionality of laws by the Administration, base their argumentation on the same principle of the legality, albeit interpreted in combination with article 103, par. 1, subpara. a of the Constitution¹⁰⁵⁸. More specifically, the Public Administration is not only bound by the law since it is previously bound by the Constitution, namely, it exercises the competences that are explicitly assigned to it “*by the Constitution and the laws concurrent with it*”. In addition, according to article 103, par. 1, subpara. a of the Constitution, public servants owe loyalty to the Constitution. Therefore, within the context of this loyalty they also have the obligation to control the constitutionality of laws, and should not implement a law that is unconstitutional (Tachos, 2005). However, Chrysogonos (2010) argues that two preconditions must disjunctively occur so that the control of the constitutionality of the provisions of a law by the Administration may be feasible. First, the administrative organs should not be under hierarchical dependence, namely, the Ministers, the supreme organs of self-administered public law legal entities (e.g. Universities), and the independent authorities. Second, other administrative organs may equally proceed to that control in cases of obvious unconstitutionality. Finally, the control of the constitutionality of the provisions of a formal law by the Administration is also acceptable by the jurisprudence¹⁰⁵⁹ (Tachos, 2005).

¹⁰⁵⁶ Article 50 of the Constitution reads as follows: “*The President of the Republic shall have no powers other than those explicitly conferred upon him by the Constitution and the laws concurrent herewith*”. The President of the Democracy is schematically the personification of Public Administration.

¹⁰⁵⁷ Article 25, par. 1, subpara. a reads as follows: “*The rights of the human being as an individual and as a member of the society and the principle of the welfare state rule of law are guaranteed by the State*”.

¹⁰⁵⁸ Article 103 par. 1, subpara. a reads as follows: “*Civil servants shall be the executors of the will of the State and shall serve the people, owing allegiance to the Constitution and devotion to the Fatherland*”.

¹⁰⁵⁹ Decisions of the Council of State 1497, 1498, 2102/1967, 1805/2008.

The issue of the control of the constitutionality of laws by the independent authorities is of great interest. Most legal theorists (Tachos, 2005; Spiliotopoulos, 2005; Chrysogonos, 1989, 2010; Tsiliotis, 2010) consider that the personal and functional independence of the members of the independent constitutional authorities, as enshrined in article 101A of the revised Constitution of 2001, reflects the will of the constitutional legislator to give them, at least partly, the prestige of judges, albeit without ceasing to be organs of the executive function. Spiliotopoulos (2005) as well as Spyropoulos and Fortsakis (2009) define the functional independence of the members of the constitutional independent authorities, as with the case of judicial officials, as i) “*the obligation to examine the constitutionality of legislative acts and not to implement those whose regulatory content is deemed to contravene the Constitution, and ii) freedom from hierarchical control (whether preventive or repressive, of legality or merit) by government bodies, and more generally freedom from any control by organs of the executive branch related to the substance of the work involved in their area of competence*”.

On the contrary, Voyatzoglou (2005) and Mathioudakis (2006) support the view that the principle of the legality, that is, the duty to implement the law, also applies in the case of the independent constitutional authorities since the common legislator exhaustively describes their competences in the relevant statutes. Mathioudakis (2006) also argues that despite the members’ personal and functional independence, these authorities do not dispose of any jurisdictional power which is exclusively reserved for the courts. However, Tsiliotis (2010) points out that the case law of the European Court of Human Rights extends the concept of the term “court” under article 6 par. 1 of the European Convention for Human Rights to administrative and *stricto sensu* non judicial organs under certain preconditions¹⁰⁶⁰.

Within this approach, the Council of State in Plenum in its judgement 3319/2010¹⁰⁶¹ ruled that “*the Hellenic Authority for Communication, Security and Privacy offers certain guarantees permitting to be considered as “court” for the needs of implementation of article 6 par. 1 of the European Convention for Human Rights*”. Nevertheless, the formulated dissenting opinions held that i) “*the common legislator acknowledging, indirectly but clearly, that the Hellenic Authority for Communication, Security and Privacy does not constitute a “court”, within the meaning of article 6 par. 1 of the European Convention for Human Rights, established against its*

¹⁰⁶⁰ Abstract from the case *Belilos v. Switzerland*, Application No. 10328/83, Judgement of 29 April 1988 of the European Court of Human Rights “64. According to the Court’s case-law, a “tribunal” is characterised in the substantive sense of the term by its judicial function, that is to say determining matters within its competence on the basis of rules of law and after proceedings conducted in a prescribed manner (see, as the most recent authority, the judgment of 30 November 1987 in the case of *H v Belgium*, Series A no. 127, p. 34, § 50). It must also satisfy a series of further requirements - independence, in particular of the executive; impartiality; duration of its members’ terms of office; guarantees afforded by its procedure - several of which appear in the text of Article 6 § 1 (art. 6-1) itself (see, inter alia, the *Le Compte, Van Leuven and De Meyere* judgment of 23 June 1981, Series A no. 43, p. 24, § 55)”. Source: Icelandic Human Rights Centre, available at: <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/cases/regionalcases/europeancourtofhumanrights/nr/451>, date of access: 20.10.2011.

¹⁰⁶¹ Source: The Official Website of the Athens Bar Association, available at – for subscribers only - <http://www.dsnet.gr/1024x768Auth.htm>, date of access: 17.5.2011

decisions, permitting the imposition of sanctions to the aforementioned providers, legal redress before a court of full jurisdiction, in order that the whole procedure may provide the guarantees of a “fair trial”, and ii) “the interpretative version adopted by the majority opinion unjustifiably equates, from that point of view, without any constitutional indication for this, the independent authorities with the courts, thus accentuating their anyway tricky classification within the whole system of intersection and mutual control of functions of the greek constitutional order”.

The supporters of the positive approach argue that all the independent authorities, whose function is provided for in legislation irrespective of their consolidation in the Constitution, may proceed to such a control as long as they fulfill those preconditions according to which administrative organs resemble to judicial ones (Tachos, 2005; Tsiliotis, 2010). Beyond these theoretical views, two independent constitutional authorities, the Hellenic Data Protection Authority and the National Council for Radio and Television, proceeded to that control, and refused to apply provisions related to their regulatory field by ruling them unconstitutional¹⁰⁶². It should also be noted that such decisions of the independent authorities may be appealed to Courts by the interested parties, whereas the competent Minister may also use legal remedies against them pursuant to article 2 par. 8 of the law 3051/2002 (Tachos, 2005).

Tachos (2005) in his observations on the Minutes 262/2004 of the National Council for Radio and Television applies the aforementioned argumentation of the positive approach, and proposes that the Public Administration and especially the Independent Administrative Authorities should control the constitutionality of laws¹⁰⁶³. As we have earlier stated, article 101A of the revised Constitution of 2001 explicitly introduced the term “functional independence” for the members of the constitutional independent authorities. However, the term does not appear in the founding law 2190/1994 of the Supreme Council for the Selection of Personnel; it exists indirectly. Indeed, article 2, par. 1 refers to one aspect of functional independence, that is, the lack of hierarchical control from the government or any other administrative authority. Interestingly enough, the decision 37/2000 of the Major Plenary of the authority, interpreting the legal status and competences of the authority as prescribed

¹⁰⁶² The Decision 17/2008 of the Hellenic Data Protection Authority exercises direct control of the constitutionality of article 7 par. 2, subpara. 7 of the law 2472/1997 stating: “*The Authority does not apply the provision of article 7 par. 2, subpara. 7 of the law 2472/1997 in case it [the provision] demands permission of the Authority for the processing of data of public faces in the exercise of the journalistic profession. And this is because the required permission of the Authority provided for in the provision constitutes a preventing measure against the freedom of Press, and, as such, it is prohibited according to the provision of article 14 par. 2 of the Constitution (See also the Decision of the Authority 26/2007). As for the rest, the provision of article 7 par. 2, subpara. 7 of the law 2472/1997, is applicable, since it sets substantial criteria for the exercise of the constitutionally consolidated (under article 14 of the Constitution) journalistic function*” (Tsiliotis, 2010). Following the minutes 262/2004 of the National Council for Radio and Television, the Authority ruled the provision of article 2 par. 2 subpara. a as contrary to article 14, par. 9 of the Constitution (Tsiliotis, 2010).

¹⁰⁶³ More specifically, Tachos states: “*e. [The Minutes] serve as a paradigm for imitation from other organs of the Public Administration, and especially from other Independent Administrative Authorities, so that the autonomy – independence, as much and as defined in the Constitution, of the Executive-Administrative Function is defended towards the Legislative and the Judicial [Functions], according to the basic explicit separation [of powers] of article 26, . . . in combination with articles 50 and 103, par. 1, subpara. a of the Constitution*”.

in the relevant legislation, uses the term “functional independence”. The term refers to the lack of hierarchical control on the one hand, and the members’ selection through the cooptation system. Nevertheless, point 4 of the decision presents great interest in relation to the meaning of the term “functional independence” since it considers that the Supreme Council for the Selection of Personnel essentially constitutes “*an idiosyncratic form of administrative court*”¹⁰⁶⁴. Beyond this interpretation, it should also be reminded that “functional independence” is a two-faceted concept according to administrative law. It safeguards independence from the executive power through the lack of hierarchical control on the one hand, and independence from the legislative power through the control of provisions that are contrary to the constitution (Spiliotopoulos, 2005). Therefore, we could assume that the authority may proceed to the control of the constitutionality of the provisions relating to its mission, namely its jurisdiction over recruitments in the public sector.

Text 2

The rationale of the judgements 2396-2398/2004 of the Council of State in Plenum

First, the provisions of article 16, par. 5 and 6 of the law 2190/1994, as in force at the time the examination took place, limited the candidates to express a preference for only one prefecture. The Court judged that the said provision was incompatible with the constitutional principle of meritocracy and the democratic principle of one’s career according to his personal value stemming from the constitutional principle of equality. According to the judgement, these constitutional principles impose, in the case of a written examination on panhellenic level on the same topics for all the candidates, the appointment of those candidates who have achieved the best performance in the examination, thus gathering the higher scores. On the contrary, the contested provision permitted the appointment of candidates with lower scores from those received by other competitors, who, despite the fact that they were competing in the same courses and performed better, were finally not appointed because of the accidental and coincidental fact that they opted for a prefecture for which it was finally proved by the results that a higher score was required. Furthermore, in the opinion of the Court, that regulation was not justified on the grounds of obvious interest, whereas it led many candidates to submit applications to the prefectures with the larger number of positions, since they considered that they had more chances to succeed. On the other hand, the large number of positions is found in big urban areas, and as a result the positions of the other prefectures of the territory remained vacant, since the candidates, despite the fact that it was a panhellenic examination, lacked the possibility of more options.

Second, the provision of article 16, par. 5 of the law 2160/1994, as in force at the time the examination took place, was contrary to the constitutional principles of equality and meritocracy since it additionally restricted the candidates to declare a preference for maximum ten public sector agencies within the one prefecture they opted for appointment. Third, the provision of article 17, par. 13 of the law 1586/1986 as amended by article 18 par. 9 of the law 2503/1997, was ruled incompatible with the constitutional principles of meritocracy and equality. The contested provision led to

¹⁰⁶⁴ Point 4 of the Decision 37/2000 of the Major Plenary of the Supreme Council for the Selection of Personnel reads as follows: “*The Supreme Council for the Selection of Personnel, due to the previously described overall mission, substantially constitutes, with more than 70% of its activity, an idiosyncratic form of administrative court*”.

the unequal treatment of the competitors. More specifically, while the graduates of technical lyceum and the graduates of general lyceum were examined in the same written examination on common topics, the quota provided for in the aforementioned provision, which was unjustifiably determined to 50%, permitted the appointment of candidates of one type of lyceum (technical) who received lower scores towards candidates of another type of lyceum (general), despite the fact that they competed on the same courses. Under such circumstances, it is impossible to evaluate the special knowledge and skills of the graduates of these two types of lyceums that would finally allow the appointment of the best performing candidates, irrespective of the type of lyceum.

APPENDIX 2

Abstract 1

“... the control function, which a mechanism of mediation such as the Ombudsman is called upon to carry out, must, in order to be effective, become identified with the logic of resolution and not the logic of denunciation¹⁰⁶⁵. In other words, it must, above all, function as an institution designed to advance solutions promoting consensus and adhering to positive sum logics and not as a punitive institution, driven by the logic of denunciation and of conflict. From its inception, the Ombudsman has been committed to demonstrating the multiple benefits of this alternative cultural model for dealing with differences and to promoting its diffusion throughout the public administration”.

Abstract 2

“So, there is no rivalry between the Ombudsman and public administration – they both have the constitutional obligation to serve society, each one from their own position. . . The Ombudsman should consolidate the first term’s *acquis*, namely defending the legal claims of citizens finding recourse to the Ombudsman, while at the same time keeping all channels open for communication and cooperation with the administration. Society and the public administration are, for that matter, the two main “interlocutors” of the Ombudsman”.

¹⁰⁶⁵ The argumentation on the logic of resolution versus the logic of denunciation is analysed in the annual report for the year 1999 as follows: “*The logic of resolution and the compromises it entails stand sharply at odds with the dominant cultural logic of Greek society. I will call this latter logic the “logic of denunciation”, precisely to indicate the total absence from this stance of a predisposition to approach differences and to seek solutions from the perspective of a positive sum or “win-win logic”, designed to search for outcomes satisfactory, even partly, for both sides. On the contrary, inherent in the logic of denunciation is a fixation upon a “zero sum logic”, of the principle, that is, according to which one or the other of two sides involved in a dispute necessarily must lose. In this sense, denunciation essentially undermines and, in the final analysis, negates the meaning of mediation, whose aim is to search for effective ways to resolve differences and to enhance the legitimacy of dispute resolution mechanisms in as broad a segment of society as possible*”.

Text 1: The four diachronic causes of maladministration

In the annual report for the year 2002¹⁰⁶⁶, the Greek Ombudsman identified the four diachronic causes of maladministration in the country which are briefly presented hereafter. First, the selection of personnel in public administration was based on clientelistic practices before the introduction of the general recruitment system in 1994. As a result of the lack of meritocracy, the personnel are not properly skilled and qualified, and therefore cannot respond to the needs of a modern and complex state, as well as to the requirements of the European integration and the international environment. Second, the novel ideology formulated in the post-junta period invoked democracy and its “human face” in order to justify the non-implementation of legislation in case of infringement of the applicable provisions. Under such circumstances, the state machinery shows a systematic relaxation in relation to the implementation of the law. Third, the overregulation of the post-junta period consisting of imperfect and obscure provisions, ministerial decisions and circulars, as well as the survival of a sufficient number of anachronistic provisions are in direct conflict with the rule of law and democracy. The combination of these attributes of the legislation leads to overlapping, the lack of clarity and precision, which, in turn, promote opacity and work against good administration. At the same time, the obscurity of the provisions allows for the creation of a particular “oligopoly” through which a small number of public officials may take advantage of their familiarisation with the complex landscape formulated by the overregulation and the lack of transparency. Therefore, they might proceed to a selective case handling with the intention to obtain lawless and illegal advantages for themselves by securing the settlement of some cases while putting unsurmountable barriers to the handling of others. Fourth, the aforementioned causes are directly linked with the long delays in resolving individual complaints. These long delays facilitate the creation of sources of potential corruption, thus permitting the development of illicit transactions between citizens, and civil servants or officials.

Abstract 3

“ . . . As I have repeatedly pointed out, the Ombudsman does not deal directly with cases related to corruption. The Authority’s founding law expressly provides that, should there be tangible evidence that a criminal act has been committed, the case must be immediately referred to the relevant public prosecutor. From a moment that a case has been turned over to justice, the Ombudsman has no authority to intervene or even follow to it.

Even though these conditions preclude direct intervention in cases of corruption, the Ombudsman’s daily experience of systemic administrative malfunction, which is linked to the hard core of maladministration, brings the Ombudsman into extensive indirect contact with instances of corruption within his field of competence. More specifically, the cumulative experience gained from over 30,000 citizens’ complaints during the three years of the Ombudsman’s operation, leads effortlessly to the conclusion that the traditional form

¹⁰⁶⁶ Source: The official website of the Greek Ombudsman, the introductive text of the Annual Report for the year 2002, available at: http://www.synigoros.gr/resources/docs/580_01.pdf, date of access: 26.10.2011.

of maladministration, as represented by long delays in resolving individual complaints, fosters an environment that is undoubtedly conducive to the development of illicit transactions between citizens and civil servants or officials, in order to speed up the processing of an individual case by the administration. In other words, corruption, which provides the civil servants concerned with all manner of “incentives”, material or immaterial, in order to ensure a quicker resolution of citizens’ requests, is thriving in those services of the central administration and local government authorities, where long delays in dealing with citizens’ applications are common. . . Urban planning authorities, tax offices, insurance funds, and the health care system are examples of areas in the public sector that are liable to foster illicit dealings and potential corruption . . .”

The Annual Report for the year 2001, p. 14-15

Abstract 4

“. . .The clientelistic phenomena both inside and outside public administration are reproduced mutually fuelled, and some of these are upgraded and consolidated as corruption networks. The clientelistic relationships, corruption, and the lack of transparency affect the cohesion of society, and keep the country away from the international developments. . .”

The Annual Report for the year 2009, p. 11

Abstract 5

“Despite the often supported view that the overall management of the recruitment procedures in the public sector should be under the full jurisdiction of the Supreme Council for the Selection of Personnel, this is not technically feasible. The full concentration of the control of the procedures secondarily produces another kind of rigidities impeding the smooth function of administration. The necessary flexibility of the system was already foreseen by the law 2190/1994, thus giving the possibility of exceptions from the procedures that are under the jurisdiction of the Supreme Council for the Selection of Personnel, exceptions that were incorporated into the revised Constitution of 2001”.

Text 2

Exceptions from the general recruitment system according to the law 3812/2009

The exceptions from the general recruitment system are purely restricted to the following categories of personnel: i. judges, the main personnel of the Legal Council of State, and coroners, ii. university professors, iii. researchers, iv. military officers, the non-political personnel of the Ministry for Citizens’ protection, the personnel of the National Intelligence Service, as well as the special uniformed staff of the municipal police, v. diplomats, the experts, the personnel of the Special Legal Service and the Special Legal Service of the European Communities of the Ministry of

Foreign Affairs, vi. the medical personnel of the National Health System, vii. Ministers of religion, viii. writers, artists and journalists, ix. Pilots and navigators, x. revocable employees, special consultants and special collaborators, xi. those providing services with a salary mandate, xii. the candidates for the National School of Public Administration and the National School of Local Government Authorities, xiii. the personnel hired from public enterprises or banks and their subsidiaries to work abroad where these agencies have investments, xiv. the personnel hired on private law contracts for a maximum period of two months to fill unforeseeable and urgent needs, xv. The medical and nursing staff of the Center for Disease Control and Prevention, the Addiction Treatment Centre, the Organisation against Drugs, the Psychiatric Hospitals of Attica and Thessaloniki, xvi. the personnel of non-profitable private law legal entities active in the field of mental health, and xvii. the personnel hired for carrying out the special employment programme for unemployed disabled individuals launched and subsidized by the Manpower Employment Organisation.

Abstract 5

The summary-Principal facts of the case *Tsourlakis v. Greece*

“The applicant, Mr Konstantinos Tsourlakis, was born in 1956 and lives in Athens. In 1989 he married and the couple had a son. In August 2000 he and his wife separated. By a judgment of 21 November 2001 the applicant’s wife was awarded sole custody of the child, while the applicant was given the use of the matrimonial home. The applicant and his wife appealed. In an interlocutory decision of 31 March 2004 a welfare report was ordered, to be prepared by the Athens Child Welfare Society (“the Society”). In November 2004 the Society’s report was filed at the hearing before the Court of Appeal. In a judgment of 19 May 2005 the Court of Appeal granted permanent custody of the child to his mother. Mr Tsourlakis attempted to obtain a copy of the Society’s report. The Society informed him that the report was a confidential document prepared for the exclusive attention of the Court of Appeal. After applying to the Ombudsman’s office, which informed him that he could not obtain a copy of the report because he had not addressed his request via the competent prosecutor, Mr Tsourlakis applied to the prosecutor at the Criminal Court. The latter rejected his request, indicating in two sentences added by hand to the applicant’s letter that the request concerned personal information about a minor, of which the applicant had no legitimate interest in being apprised”.

APPENDIX 3

Text 1

The full text of the decision 27/2007

“Athens, 02.04.2007

File no: 2444

Decision no 27/2007

The Hellenic Data Protection Authority met upon invitation of its President to a regular meeting on June 15, 2006 at its establishment consisting of D.G.¹⁰⁶⁷, President, the regular members F. D., who was defined as Rapporteur¹⁰⁶⁸, L.K.¹⁰⁶⁹, A.P.¹⁰⁷⁰, and N. F.¹⁰⁷¹, and the alternate members A.P.¹⁰⁷² and G. P.¹⁰⁷³ substituting the members S. S and A. P. respectively, who, although legally invited, did not appear due to impediment, in order to examine the case referred to the history of this decision. There were also present without the right to vote E. M., Auditor¹⁰⁷⁴, as Assistant Rapporteur, and G. P., employee of the Administration-Finance Department of the Authority, as secretary ordered by the President

The authority took into consideration the following:

The President of the Department . . . of the University . . . (A) Professor G.M. submitted a request with file no . . . dated 15.02.2006 to the authority asking to give its opinion on whether the publication of the introductory reports and the minutes of the election and promotion of the members of the Teaching Research Staff (hereinafter TRS) i) in the form of their publication as a book in multiple copies, or ii) furthermore in the form of their uploading to the Internet is consistent with law 2472/1997 for the protection of personal data.

The request was completed by the supplementary document with file no . . . dated 22.03.2006, the supplementary documents with file no . . . dated 03.04.2006 by the Professor Mr N. Th., President of the Department of the University (B), as well as the answers of the British, Norwegian, Polish, and Spanish (Madrid) Authority to the general question.

After examination of all the information of the file, and following interactive discussion THE AUTHORITY CONSIDERED UNDER THE LAW

1. Pursuant to article 6 chapter D (F) par. 8 of the law 2083/1992 on the Higher Education Modernisation “*The minutes of the election procedures of a member of the TRS shall be published each year in a special volume with the responsibility of the respective Department, and shall be accessible to any interested person*”.

¹⁰⁶⁷ J19: Honorary Vice-President of the Hellenic Supreme Court of Civil and Penal Law

¹⁰⁶⁸ U31: Professor of Civil Law at the Department of Law, Athens University

¹⁰⁶⁹ U29: Professor of Penal Law at the Department of law, Athens University

¹⁰⁷⁰ U17: Associate Professor of Penal Law at the Department of General Law, Panteion University of Social and Political Sciences

¹⁰⁷¹ FP12: Lawyer

¹⁰⁷² J27: Former Judge of the Hellenic Supreme Court of Civil and Penal Law

¹⁰⁷³ U21: Professor of Informatics at the Technological Educational Institute of Athens

¹⁰⁷⁴ SP16: She submitted her resignation from the authority on 22.7.2008 (G.G. vol. C, 703, 30.7.2008). She was appointed Head of the Office for International and European Union Issues at the General Secretariat of the Government by decision of the Prime Minister Georgios Papandreou, (G.G. vol. YODD, no 201, 7.6.2010).

Article 4 par. 1, subparagraphs a and b of the law 2472/1997 reads as follows: *“The personal data, in order to be lawfully processed, must be:*

a) collected fairly and lawfully for specific, explicit, and legitimate purposes and fairly and lawfully processed in view of these purposes.

b) relevant, adequate, and not excessive in relation to the purposes for which they are processed at any given time”.

2. In the introductory reports and the minutes of the election of the members of the TRS reference is made to the candidates' personal data as well as to those of the members already serving as is information but also assessments of their curriculum vitae, studies, scientific progress, professional and teaching experience. They are mainly simple personal data pursuant to article 2a of the law 2472/1997¹⁰⁷⁵ (see the relevant Decision of the Authority 56/2003). Sensitive personal data referred to in article 2b of the law 2472/1997¹⁰⁷⁶ may also be contained in the minutes. However, this case is considered extraordinary and rare, precisely because of the nature and the purpose of the procedures for the TRS members' election, and the lack of relevance, in principle, of sensible personal data with these procedures.

Processor of the personal data under article 2h of the law 2472/1997¹⁰⁷⁷ is the legal person of the University (A) where the Department pertains

The publication of the minutes pursuant to article 6 Chapter D (F) par. 8 of the law 2083/1992 constitutes a form of processing of personal data in accordance with article 2d of the law 2472/1997¹⁰⁷⁸, and specifically it falls within the concept of “dissemination” which, contrary to “transmission”, is addressed to a potentially unlimited number of recipients.

3. The concept of publication, as prescribed in article 6 Chapter D (F) par. 8 of the law 2083/1992, correctly interpreted, refers to the publication in the book-special volume as explicitly provided for in the aforementioned law. Anyone has access to this specific book without invoking legitimate interest. Yet this does not mean that the foreseen publicity includes publication in more copies or a fortiori publication in Internet since such an interpretation infringes the principle of proportionality in relation to the processing of

¹⁰⁷⁵ Article 2a of the law 2472/1997 reads as follows: *““Personal data” shall mean any information relating to the data subject. Personal data are not considered to be the consolidated data of a statistical nature whence data subjects may no longer be identified”.*

¹⁰⁷⁶ Article 2b of the law 2472/1997 reads as follows: *“Sensitive data” shall mean the data referring to racial or ethnic origin, political opinions, religious or philosophical beliefs, membership to a trade-union, health, social welfare and sexual life, criminal charges or convictions as well as membership to societies dealing with the aforementioned areas. In particular, in cases of criminal charges or convictions, it is possible to allow their publication by the Public Prosecutor's Office for the offences referred to in item b, paragraph 2 of Article 3 following an order by the competent Public Prosecutor of the Court of First Instance or the chief Public Prosecutor if the case is pending before the Court of Appeal. The publication of criminal charges or convictions aims at the protection of the community, of minors and of vulnerable or disadvantaged groups, as well as at the facilitation of the punishment of those offences by the State”.*

¹⁰⁷⁷ Article 2h of the law 2472/1997 reads as follows: *“Processor” shall mean any person who processes personal data on behalf of a Controller, such as any natural person or legal person, public authority or agency or any other organisation”.*

¹⁰⁷⁸ Article 2d of the law 2472/1997 reads as follows: *“Processing of personal data” (“processing”) shall mean any operation or set of operations which is performed upon personal data by Public Administration or by a public law entity or private law entity or an association or a natural person, whether or not by automatic means, such as collection, recording, organisation, preservation or storage, modification, retrieval, use, disclosure by transmission, dissemination or otherwise making available, correlation or combination, interconnection, blocking (locking), erasure or destruction”.*

personal data and its scope established by article 4 par. 1 subparagraph b of the law 2472/1997.

The publication in the Internet differs particularly, not only quantitatively but also qualitatively, from the publication in a special volume provided for in article 6 Chapter D (F) par. 8 of the law 2083/1992 since the Internet of its nature permits access to the candidates' and TRS members' personal data to an unlimited and undefined number of interested persons wherever they are, in Greece or abroad, and at any time. Thus, it goes beyond the purpose of the special volume previously mentioned, and consequently it is not necessary for its achievement.

This judgement of the Authority is also in harmony with other previous decisions. More specifically, in a similar case of the publication in the Internet of the findings of a researcher's assessment by the Institute he was working for, it was judged that the dissemination through the Internet is not absolutely necessary and infringes the principle of proportionality since in the balance of interests the protection of the subject's personality and personal data prevails.

In the aforementioned case of publishing in the Internet the findings of a researcher's assessment, the balance of interests takes into consideration the protection of personal data and the informational self-determination on the one hand, and the freedom of information and the principle of transparency. The Authority concluded that the protection of personal data prevails, and did not permit the publication. By the same token, applying the principle of proportionality, the Authority did not permit the publication of the minutes of any procedure regarding hiring and promotion in the public and private sector since the purpose of the hiring and promotion procedures in labor relationships in general is finding the better qualified candidate, formally and substantially, for filling the position and not the disclosure of the qualifications to an unlimited number of recipients irrelevant with the procedures. The possible legitimate interest of third parties as that of the rejected fellow candidates is satisfied with the milder means of the grant of the data and the supporting documents that provided the basis for their assessment (see Decision of the Authority 56/2003).

Finally, the Authority judged that the principle of transparency is fully served by publishing in the Internet only the names of the successful candidates, and considered that also announcing through Internet the names of the unsuccessful candidates exceeds this purpose, and infringes the principle of proportionality (see Decision of the Authority 62/2003).

Based on these data, the Authority judges that both freedom of information and transparency are effectively served through the way of publication provided for in the law 2083/1992, that is, in a special volume, and consequently the publication of the introductory reports and the minutes of the TRS members' election, either in more copies or the Internet, is disproportionate by comparison to the intended purposes of processing, and infringes the protection of the candidates' and STS members' personal data and informational self-determination.

FOR THESE REASONS

1. It judges that the publication of the introductory reports and the minutes of the election of the candidates and the TRS members in more copies and in the Internet is contrary to the provisions of the law 2472/1997, and therefore it is not legal.

The President

.....

The Secretary

.....”

Text 2

Freedom of information legislation and relevant provisions of the revised Constitution of 2001

The mode of action of the organs of the state and the three powers (legislative, executive, judicial) is governed by the principle of transparency. This principle, as far as Administration is concerned, is related to its duty to ensure the publicity of its decisions and actions (own initiative provision of information, publication of laws, regulatory acts, circulars, etc) on the one hand, and the citizens' right of access to documents (granting of documents upon request). After the constitutional revision of 2001, article 5A explicitly establishes the individual right to information and participation in the Information Society¹⁰⁷⁹, and article 10 par. 3 provides for the obligation of granting public documents¹⁰⁸⁰. To the extent that an original conflict with other constitutionally protected rights is caused, such as the individual's private life and the protection of its personal data, it is, in principle, within the dominant power of the legislator to proceed to the relevant options, while respecting the principle of proportionality (article 25 par. 1 of the Constitution). According to this principle, all state organs are required to effectively safeguard the practical implementation of the citizens' constitutional rights.

At the time of the promulgation of the contested provision on the publication of the selection minutes in a special volume, freedom of information legislation had already been enacted in Greece under article 16 (Right of Access to Administrative Documents) of Law 1599/1986¹⁰⁸¹ (State-citizenry Relationship). It introduced the right of all citizens to read most administrative documents drawn up by public sector entities, mainly reports, studies, minutes, statistical data, circulars, instructions, responses, consultatory responses, and decisions. However, citizens do not have access to administrative documents concerning the private or family lives of others, or if the document's confidentiality is safeguarded by specific legal provisions. Private documents stored by public services may only be accessible to citizens with a legitimate interest. This right is exercised either through the on-site study of the administrative documents or through copies obtained at the citizens' expense. Article 9 par. 2 of the law 3979/2011 provides that the study of the document or the granting of a copy may also be available through the use of information and communication technologies (ICTs) when the documents are electronically kept.

¹⁰⁷⁹ Article 5A of the Constitution reads as follows: "1. All persons have the right to information, as specified by law. Restrictions to this right may be imposed by law only insofar as they are absolutely necessary and justified for reasons of national security, of combating crime or of protecting rights and interests of third parties. 2. All persons have the right to participate in the Information Society. Facilitation of access to electronically transmitted information, as well as of the production, exchange and diffusion thereof, constitutes an obligation of the State, always in observance of the guarantees of articles 9, 9A and 19". The latter articles refer to the protection and inviolability of private and family life, personal data, and secrecy of letters and all other forms of free correspondence or communication.

¹⁰⁸⁰ Article 10 par. 3 of the Constitution reads as follows: "The competent service or authority is obliged to reply to requests for the provision of information and for the supply of documents, especially certificates, supporting documents and attestations, within a set deadline not exceeding 60 days, as specified by law. In case this deadline elapses without action or in case of unlawful refusal, in addition to any other sanctions and consequences at law, special monetary compensation is also paid to the applicant, as specified by law."

¹⁰⁸¹ This right is now codified as article 5 (Access to documents) of the Administrative Procedural Code, Law 2690/1999.

Text 3 Testing the legality of the selection procedures in the Greek Universities

The following tables contain a list of decisions of the Council of State regarding the appeals of candidates to fill positions in Greek Universities from 1990 to 2010. The data were collected with the use of keywords through the database of legal information of the official website of the Athens Bar Association, section jurisprudence, available at <http://www.dsanet.gr/1024x768Auth.htm>. The decisions are classified by university. The indication YES refers to decisions where the applicants -the candidates- win the case, whereas the indication NO refers to decisions where the candidates' appeals were rejected.

University of Athens

Decision No	Result	Decision No	Result	Decision No	Result
3818/1990	Yes	3850/1996	Yes	2604/2004	Yes
2840/1990	Yes	3697/1996	Yes	2390/2004	No
3819/1992	Yes	3138/1996	Yes	2365/2004	Yes
2772/1992	Yes	2931/1996	No	1010/2004	Yes
2104/1992	Yes	2793/1996	Yes	257/2004	Yes
1217/1992	Yes	2792/1996	Yes	253/2004	Yes
1142/1992	Yes	2491/1996	Yes	3928/2005	Yes
1141/1992	Yes	3519/1997	Yes	2373/2005	Yes
2118/1993	Yes	1563/1997	No	984/2005	Yes
2112/1993	Yes	1467/1997	No	1389/2006	Yes
2109/1993	Yes	3167/1998	Yes	248/2006	Yes
1539/1993	Yes	957/1998	Yes	183/2006	Yes
1538/1993	Yes	3996/2000	Yes	3308/2007	No
674/1993	Yes	3260/2000	Yes	2030/2007	No
2352/1994	No	2711/2000	Yes	1469/2007	Yes
2008/1994	No	2287/2000	Yes	498/2007	Yes
1557/1994	Yes	1110/2000	Yes	1673/2008	Yes
1556/1994	Yes	3702/2001	Yes	447/2009	No
1044/1994	Yes	3069/2001	No	3674/2009	Yes
979/1994	Yes	2913/2001	Yes	3003/2010	Yes
978/1994	Yes	1752/2001	No	1662/2010	Yes
6570/1995	Yes	2886/2001	Yes	1661/2010	Yes
5046/1995	No	1178/2001	Yes	1406/2010	Yes
4783/1995	Yes	713/2001	Yes	1147/2010	Yes
3314/1995	Yes	429/2001	Yes	1033/2010	Yes
2884/1995	Yes	3637/2002	Yes		
2867/1995	Yes	2905/2002	No		
1651/1995	Yes	2501/2002	Yes		
6033/1996	Yes	915/2002	No		
5710/1996	Yes	336/2002	Yes		
4441/1996	Yes	2853/2003	Yes		
4340/1996	Yes	515/2003	Yes		

Final result: 75 decisions YES (84%), 14 decisions NO (16%)

National Technical University of Athens

Decision No	Result	Decision No	Result	Decision No	Result
2877/1993	Yes	1404/1997	Yes	2380/2004	Yes
1230/1993	Yes	1562/1999	Yes	1160/2004	Yes
2867/1994	Yes	1728/2000	Yes	3575/2009	Yes
1244/1994	Yes	122/2001	Yes		

Final result: 11 decisions YES (100%)

Aristotle University of Thessaloniki

Decision No	Result	Decision No	Result	Decision No	Result
4076/1990	Yes	350/1995	Yes	1535/2002	Yes
2315/1990	Yes	3592/1996	Yes	1204/2002	Yes
2314/1990	Yes	808/1996	Yes	1094/2002	Yes
507/1990	Yes	438/1996	Yes	759/2002	No
2217/1991	Yes	3484/1997	Yes	2229/2005	Yes
2041/1991	No	3053/1997	Yes	1853/2006	Yes
1568/1992	Yes	2765/1997	No	1733/2006	Yes
895/1992	No	1791/1997	Yes	417/2006	Yes
2670/1993	Yes	1419/1997	Yes	416/2006	Yes
1377/1993	Yes	1056/1997	Yes	2800/2007	No
2964/1994	Yes	714/1997	Yes	1408/2007	Yes
2291/1994	Yes	4476/1998	Yes	109/2007	Yes
1938/1994	Yes	1978/1998	Yes	2657/2008	Yes
266/1994	Yes	1775/1998	Yes	1196/2009	Yes
249/1994	Yes	1069/1999	No	3192/2010	Yes
2008/1994	No	3159/2000	Yes	1161/2010	No
5808/1995	Yes	652/2000	Yes	1160/2010	No
1248/1995	Yes	3275/2001	Yes		
725/1995	Yes	3736/2002	Yes		

Final result: 47 decisions YES (85%), 8 decisions NO (15%)

University of Ioannina

Decision No	Result	Decision No	Result	Decision No	Result
798/1991	No	2688/2003	Yes	2459/2010	Yes
3234/1993	Yes	3136/2004	No	1886/2010	Yes
4390/1995	Yes	3384/2005	Yes	1786/2010	No
2731/1998	Yes	3720/2006	Yes	1541/1993	No
3709/2002	Yes	2144/2006	Yes		Yes
2988/2002	Yes	2460/2010	Yes		Yes

Final result: 13 decisions YES (81%), 3 decisions NO (19%)

University of Patras

Decision No	Result	Decision No	Result	Decision No	Result
1715/1990	Yes	3724/1995	Yes	2924/2001	No
3609/1992	No	3673/1996	Yes	436/2001	Yes
2291/1993	Yes	888/1996	Yes	3263/2002	Yes
2120/1993	Yes	628/1997	Yes	4114/2005	Yes
1455/1993	Yes	2663/1998	Yes	2892/2007	Yes
5541/1995	No	1225/1998	No	2398/2009	Yes
5151/1995	Yes	3995/2000	Yes	4065/1998	Yes
5150/1995	Yes	4102/2001	Yes	1455/1993	Yes

Final result: 20 decisions YES (83%), 4 decisions NO (17%)

Athens School of Fine Arts

Decision No	Result	Decision No	Result
1264/1997	Yes	3724/1995	Yes
2914/2000	Yes	3673/1996	Yes
3507/2004	Yes	888/1996	Yes
		628/1997	Yes
		2663/1998	Yes
		1225/1998	No

Final result: 3 decisions YES (100%) Final result: 5 decisions YES (83%),
1 decision NO (17%)

Democritean University of Thrace

Decision No	Result	Decision No	Result	Decision No	Result
517/1990	Yes	591/2000	Yes	2361/2004	Yes
89/1994	Yes	4099/2001	Yes	2688/2005	Yes
5410/1995	Yes	3491/2001	Yes	61/2005	Yes
2747/1997	No	1783/2001	No	1542/2006	Yes
3531/1999	Yes	1770/2001	No	2027/2007	Yes
2584/1999	Yes	240/2002	Yes	1974/2007	Yes
4108/2000	Yes	119/2002	Yes	1670/2008	Yes
1534/2000	Yes	3735/2003	Yes		

Final result: 20 decisions YES (87%), 3 decisions NO (13%)

University of Crete

Decision No	Result	Decision No	Result	Decision No	Result
3131/1990	Yes	2741/1992	Yes	1178/2001	Yes
2637/1990	Yes	5907/1995	Yes	964/2002	Yes
1086/1991	No	1196/1996	Yes	3031/2004	Yes
165/1991	Yes	3897/2000	Yes	2592/2009	Yes

Final result: 11 decisions YES (92%), 1 decision NO (8%)

Panteion University of Political and Social Sciences

Decision No	Result	Decision No	Result	Decision No	Result
1449/1993	Yes	2161/2000	Yes	1149/1992	Yes
2918/1994	Yes	15/2004	Yes	2405/2000	No
4933/1995	Yes	1807/2007	Yes		

Final result: 7 decisions YES (87%), 1 decision NO (13%)

University of Thessaly

Decision No	Result	Decision No	Result	Decision No	Result
5700/1996	No	2214/2001	Yes	3493/2009	Yes
611/1997	Yes	1334/2001	Yes	2700/2010	Yes
498/1998	No	3271/2003	Yes	2461/2010	Yes
3796/2000	Yes	2723/2004	Yes		
3697/2001	Yes	2719/2005	Yes		

Final result: 11 decisions YES (85%), 2 decision NO (15%)

University of Macedonia

Decision No	Result	Decision No	Result
1734/1998	No	2823/1990	Yes
1733/1998	No	3703/1992	No
2869/1995	Yes	5537/1995	Yes
4012/2000	Yes	1118/2000	No
250/2004	Yes	584/2003	No
1661/2008	No		
4070/2009	Yes		
3228/2010	Yes		

Final result: 5 decisions YES (62%)
3 decisions NO (38%)

Technical University of Crete

Decision No	Result
2823/1990	Yes
3703/1992	No
5537/1995	Yes
1118/2000	No
584/2003	No

Final result: 2 decisions YES (40%),
3 decision NO (60%)

Agricultural University of Athens

Decision No	Result	Decision No	Result
3759/1992	No	139/1992	Yes
2778/2006	Yes	2722/2007	No
1563/2009	Yes		

Final result: 2 decisions YES (67%)
1 decision NO (33%)

University of Aegean

Decision No	Result
139/1992	Yes
2722/2007	No

Final result: 1 decision YES (50%),
1 decision NO (50%)

Ionian University

Decision No	Result	Decision No	Result	Decision No	Result
2110/1997	No	3285/2005	Yes	3574/2010	3285/2005
124/2001	No	2319/2006	Yes	3575/2010	2319/2006
440/2002	Yes	1571/2006	Yes	3576/2010	Yes

Final result: 6 decisions YES (67%), 3 decisions NO (33%)

Text 4

The “Clarity” programme, the law 4009/2011, and the validity of the decision 27/2007

The launching of the “Clarity” Programme provided for in law 3861/2010 directly challenges the rationale of the decision 27/2007. The Explanatory Report¹⁰⁸² on the draft law on the Clarity Programme noted that the broad internet publicity enables citizens to enjoy and exercise their constitutionally consolidated rights: primarily the right to information, as enshrined in article 5A par. 1 of the Constitution, and consequently and the constitutionally consolidated rights that are related to or and depend from this information, as the right to the development of personality, the participation in social, economic, and political life (article 5 par. 1 of the Constitution). The Ministry of Public Administrative Reform and e-Government describes the functions and objectives of the programme as follows¹⁰⁸³:

“Beginning October 1st 2010, all Ministries are obliged to upload their decisions on the Internet, through the «Clarity» program. Clarity is one of the major transparency initiatives of the Ministry of the Interior, Decentralization and e-Government. Henceforth, the decisions of the public entities can not be implemented if they are not uploaded on the Clarity websites, each document is digitally signed and assigned a transaction unique number automatically by the system.

Clarity will cover all public institutions, regulatory authorities and local government. The Clarity program introduces for the first time in Greece the obligation to publish all the decisions on the Internet, with the exception of decisions that contain sensitive personal data and/or information on national security. It is quite an innovative program, even by European standards, aiming first of all to bring about the maximum publicity of the government policy and administrative action. The use of Internet guarantees wide publicity and access to information, progressively contributing to a culture change in the whole of the Public Administration.

The full implementation of the Clarity program will contribute substantially to the creation of a more transparent relationship between the Citizens and the State. From the 1st of October

¹⁰⁸² The Explanatory Report on the draft law “Clarity Programme”, The Official Website of the Hellenic Parliament, available at <http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/g-diavgia01-eis%20qxp.pdf>, date of access: 30.11.2011.

¹⁰⁸³ The Official Website of the Ministry of Public Administrative Reform and e-Government, available at: <http://diavgeia.gov.gr/en>, date of access: 16.11.2011.

2010, citizens are able to fully exercise their constitutional rights, such as the right to be informed and to participate in the Information Society. At the same time, the compulsory uploading of all decisions by all institutions exercising public authority on the Internet leads to the reinforcement of responsibility and accountability”.

Article 2, par. 13 of the law 3861/2010 regarding the scope of the “Clarity programme” provides that on the internet are uploaded “*selection lists with the successful candidates, those to be appointed, and the runner-ups, following relevant public announcements for the selection of personnel in cases where their publication is foreseen under current legislation*”. In its opinion 1/2010¹⁰⁸⁴ on the Clarity Programme the Hellenic Data Protection Authority generally acknowledged the increased demands for transparency in cases of public selection procedures for filling positions in public administration. Nevertheless, it expressed its reservations regarding the formulation of the aforementioned provision. It suggested that the selection lists should only contain the names and the scores of the successful candidates so that the personal data of the unsuccessful candidates would not be excessively affected¹⁰⁸⁵. It judged that the transparency of the selection procedure would be safeguarded by other means of publicity (such as the announcement boards at the agencies of the prefectures). However, it seems that the common legislator disregarded the suggestion, and finally included the runner-ups in the electronic publication of the selection lists.

The selection minutes of university professors may be considered as the equivalent of the selection lists of article 2, par. 13 of the law 3861/2010. In both cases, each candidate is entitled to know the justification according to which the order of priority was defined both his own and that of the fellow candidates. This justification consists of quoting to the relevant selection lists or minutes the evidence and criteria upon which each candidate’s order of priority was defined. Therefore, we could argue that based on the relevant provision of the Clarity Programme, the selection minutes of the university professors contained in the special volume could also be published in the Internet¹⁰⁸⁶.

¹⁰⁸⁴ The authority within the field of its competences delivers opinions with respect to any rules relating to the processing and protection of personal data pursuant to article 19, par. 1a of the law 2472/1997. The opinion 1/2010 on the “Clarity” programme is contained in the Annual Report of the authority for the year 2010, pp 244-253. Source: The official website of the Hellenic Data Protection Authority, available at: http://www.dpa.gr/pls/portal/docs/PAGE/APDPX/ANNUALREPORTS/COPY_OF_AR2010/ETHSIA%20EKTHESI%202010.PDF, date of access: 30.11.2011.

¹⁰⁸⁵ The authority invoked its own previous decisions (no 61/2004 and no 15/2005)

¹⁰⁸⁶ The Technological Educational Institute of Thessaloniki uploaded on the Internet via the Clarity Programme the Introductory Report for the assessment of the candidacies of the scientific and laboratory collaborators of the Department of Agricultural Products Marketing and Quality Control for the Academic Year 2010-2011, date of publication on the internet: 31.03.2011 Following article 2, par. 4 of the Presidential Decree 149/2002, the Introductory Report is displayed at the announcement board of the Department. Information available at: <http://et.diavgeia.gov.gr/f/teithe/ada/4%CE%91%CE%97%CE%9F4691%CE%9F%CE%94-1>, datae of access: 17.11.2011.

The law 4009/2011, namely, the last reform on higher education, seems to have opened the way for the electronic publishing of the selection minutes as well as all the other administrative acts relating to the university professors' selection procedures, albeit the formulation of the clause is not clear on the issue. Article 19 par. 9 provides for *“the organization, monitoring, and publicisation of the university professors' selection procedures . . . through an electronic integrated management system . . .”*. Consequently, the clause on the publication of the selection minutes in a special volume is no longer in force. The Clarity Programme and the law 4009/2011 have weakened the validity of the decision 27/2007. The publication of the joint ministerial decision regulating the issues on the development and operation of the electronic integrated management system of the law 4009/2011, which is still pending, might probably solve the interpretative enigma of the publicization of the university professors' selection procedures.

APPENDIX 4

Text 1

The full text of the communication of NIS

“In relation to publications referring to today's briefing of the President of the Hellenic Authority for Communication, Security and Privacy, Mr A. L., to the Special Permanent Standing Committee on Institutions and Transparency of Parliament, the National Intelligence Service announces the following: The Hellenic Authority for Communication, Security and Privacy is responsible, according to the law 3115/2003, for the regular and extraordinary audit of the National Intelligence Service regarding the legal waiver of confidentiality of communications. The Hellenic Authority for Communication, Security and Privacy has not audited the NIS since the taking up of duties of the current administration on October 14, 2009. The last time the authority exercised its relevant competence on the NIS was on January 7, 2009, as the President said to the Committee. The National Intelligence Service operates in full respect of the laws of the State. We ask the Hellenic Authority for Communication, Security and Privacy to check on the NIS as soon as possible, so that there is no doubt among the Greek citizens that the Service operates in accordance with the Constitution and the laws. We assure that it will be provided any technical or other assistance to the audit, regular or extraordinary, so that the auditors' task shall be successfully delivered. The NIS defends the national security, and accordingly informs the political leadership and the competent Authorities. The National Intelligence Service in cooperation with the competent prosecutorial authorities has achieved considerable successes in the combat against terrorism and organized crime (smuggling fuel, cigarettes, antiquities, parajudicial circuit, illegal football betting, etc.). The number of waivers of confidentiality is dictated by the need to safeguard the national issues and fight against crime. Moreover, the waiver of the secrecy of telephone conversations is effectuated, only if the procedure as provided for in legislation is followed, that is, only upon the issue of the relevant provision on the waiver of confidentiality by the prosecutor seconded to the NIS. He controls the legality of the special operational activities (Law 3649 Article 5 para 3). Subsequently, the relevant provision is approved by the Prosecutor of Appeals of Athens, and is then sent for execution to the relevant telephone companies whose archive systems contain the relevant telephone numbers. It is noted that any relevant provision on the waiver of confidentiality is communicated to the Hellenic Authority for Communication, Security and Privacy.

The relevant telephone numbers are equally kept to the archives of the Authority as well as to the Public Prosecutor's Office. It is obvious that the NIS is subject to the Prosecutor's control in relation to the identification of the numbers, whose confidentiality is waived, with the persons to whom they belong". Source: The official website of NIS, available at: <http://www.nis.gr/portal/page/portal/NIS/News/LatestNews?newid=178531>, date of access: 11.12.2011.

Text 2

Summary of the content and accompanying questionnaire on the category communications interception according to Privacy International

"Interception is generally considered amongst the most intrusive forms of surveillance. Countries that understand this will implement it under extremely strict conditions of law and will apply stringent controls. Interception must be done sparingly, once other methods of investigation have been tried, and failed; and authorised by an independent judge, with regular oversight of the activities of the state agencies. Increasingly governments are resorting to unwarranted surveillance.

- Are there adequate laws protecting against abuse?
- When can police intercept? e.g. only when investigating specific types of crimes, 'serious crimes', etc.
- Do state security agencies have to follow similar rules?
- Who authorises? a judge? a politician? ['judicial warrants' does not mean the same in all countries, where sometimes judges have investigatory powers, but we do our best to note this]"

Text 3

Summary of the content and accompanying questionnaire on the category surveillance oversight according to Privacy International

Many governments are allowing their security services to circumvent constitutional and statutory protections and safeguards. The trump card of 'national security' is now being used as commonly as 'terrorism' to justify further encroachments on due process and the rule of law. History has shown that secret surveillance done by security services has caused great harms and led to abuses. Many governments are now returning to these practices where they are allowing their security services to circumvent constitutional and statutory protections and safeguards, avoiding warrant requirements, preventing oversight, and exempting these agencies from the law.

- Are national security agencies exempted from privacy laws?
- Are there appropriate reporting and oversight mechanisms for secret surveillance?
- Have there been cases of abuse and if so, has there been sufficient safeguards put in place?

Appendices

Chapter 5

APPENDIX 1

T A B L E S SUMMARISING LEGISLATION ON IMMUNITY REGIMES IN THE INSTITUTION OF THE OMBUDSMAN IN COUNCIL OF EUROPE MEMBER STATES

Dimensions of immunity in the institution of the Ombudsman	ALBANIA	
	The People's Advocate	
	Non-liability	Inviolability
Legal basis	Constitution approved by the Albanian Parliament 21.10.1998 (art. 137, par. 1 & 2) Statute No. 8454, art. 6, par. 3, (4.2.1999)	Constitution approved by the Albanian Parliament 21.10.1998 (art. 137, par. 1 & 2) Statute No. 8454, art. 6, par. 3, (4.2.1999)
Scope of immunity	<u>Functional</u> The People's Advocate enjoys the immunity of a judge of the High Court. He may be criminally prosecuted only with the approval of the Assembly. He cannot be detained or arrested unless apprehended in the course of committing a crime or immediately after its commission. The competent organ immediately notifies the Constitutional Court. If the Constitutional Court does not consent within 24 hours to the sending of the arrested People's Advocate before a court, the competent organ is obliged to release him.	<u>Extra-functional</u> The People's Advocate enjoys the immunity of a judge of the High Court. He may be criminally prosecuted only with the approval of the Assembly. He cannot be detained or arrested unless apprehended in the course of committing a crime or immediately after its commission. The competent organ immediately notifies the Constitutional Court. If the Constitutional Court does not consent within 24 hours to the sending of the arrested People's Advocate before a court, the competent organ is obliged to release him.
Acts covered by immunity	All acts for which he may be criminally prosecuted in his capacity as the People's Advocate	All acts for which he may be criminally prosecuted.
Persons covered	The People's Advocate	The People's Advocate
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Assembly	Yes, with the authorisation of the Assembly
Procedure for lifting immunity	- The Public Prosecutor submits a proposal to lift immunity to Parliament according to the conditions laid down in constitutional law - The proposal is examined by a plenary session of the Assembly. - The decision to lift immunity is taken by a majority of the deputies present (not less than one third of them).	In cases of <i>flagrante delicto</i> , with the consent of the Constitutional Court within 24 hours - The Public Prosecutor submits a proposal to lift immunity to Parliament according to the conditions laid down in constitutional law - The proposal is examined by a plenary session of the Assembly. - The decision to lift immunity is taken by a majority of the deputies present (not less than one third of them).

Dimensions of immunity in the institution of the Ombudsman	ARMENIA	
	The Human Rights Defender	
	Non-liability	Inviolability
Legal basis	Constitution “The Human Rights’ Defender shall be endowed with the immunity envisaged for the Deputy” art. 83.1.6 Law on the Human Rights Defender of 01.01.2004 as amended and supplemented in 01.06.06, art. 19 par. 1 and 23.5*	Law on the Human Rights Defender of 01.01.2004 as amended and supplemented in 01.06.06, art. 19 par. 2 and 23.5
Scope of immunity	<u>Functional- Absolute immunity</u> No criminal prosecution or bringing to account shall be brought against the Defender for the actions including for the opinion expressed at the National Assembly, if it does not contain slander or offence <u>Staff</u> <u>Functional immunity</u> All persons holding any position in the Defender’s staff cannot be convicted, persecuted, detained, arrested or brought to court for any action performed, opinion expressed or decision made while performing their responsibilities under the Defender’s instructions	<u>Extra-functional immunity</u> He shall not be involved as a defendant, be detained, arrested or called to the administrative account without the consent of the national Assembly - except in cases of <i>flagrante delicto</i> . In this case the President of the National Assembly shall be informed immediately.
Acts covered by immunity	All actions and opinion expressed in Parliament except in cases of slander or offence (The Defender) All actions, opinions and decisions under the Defender’s instructions (the Staff of the Defender)	All offences which may lead to the above-mentioned measures save in cases of <i>flagrante delicto</i> . In such a case the competent authority shall inform immediately the President of the National Assembly.
Persons covered	The Defender and his/her Staff	The Defender
Duration of immunity	Perpetual (for the Defender) During the period of tenure (for the Staff)	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Defender	Yes, with the authorisation of the Assembly
Procedure for lifting immunity	The procedure for waiving the staff’s immunity is not precise (See opinion of the Venice Commission on the Law on the Human Rights Defender of Armenia (CDL-AD(2006)038)	Rules of Procedure of the National Assembly Art. 98 “The petition to give consent for bringing charges to arrest, to involve as a defendant, to take a deputy (in our case the Defender) into custody and judicially institute administrative or criminal proceedings against him/her shall be submitted by the Prosecutor General to the President of the National Assembly. The resolutions shall be voted on by secret ballot and adopted by a majority vote from the number of deputies who voted, if more than half of the total number of the deputies have voted (Amended and added on 26.02.2007 LA-111).

* According to the Joint Opinion No. 490 / 2008 adopted by the Venice Commission at its 76th Plenary Session (Venice, 17-18 October 2008), following the submission of a letter dated 1 July 2008, by the Human Rights Defender of Armenia, Mr Harutyunyan, who requested from the Venice Commission an opinion on amendment to article 23(5) of the Law on the Protector of Human Rights and Freedoms, the proposed amendment to deprive the staff of the immunity regime it enjoyed was inconsistent with the guarantees of independence that the institution requires.

Dimensions of immunity in the institution of the Ombudsman	AZERBAIJAN	
	The Human Rights Commissioner	
	Non-liability	Inviolability
Legal basis	Constitutional Law N. 246-IKQ (adopted on 28.12.2001), art. 6.5	Constitutional Law N. 246-IKQ (adopted on 28.12.2001) art. 6.1, 6.2, 6.3, 6.4, 6.5
Scope of immunity	<u>Functional</u> Any former Commissioner shall remain inviolable for the activities conducted and the opinions expressed while performing the powers of Commissioner. Criminal or administrative proceedings with regard to offences committed by the Commissioner in that period shall be carried out as provided for in Art. 6.3 of the present Law.	<u>Extended Extra-functional immunity</u> with respect to criminal or administrative proceedings, arrest, detention, search, and examination without the consent of the Parliament -save in cases of <i>flagrante delicto</i> It extends also to his or her home, service premises, means of transport and communication, correspondence, private property and documents.
Acts covered by immunity	All activities conducted and all opinions expressed while performing the powers of Commissioner.	All offences which may lead to the above-mentioned measures, save in cases of <i>flagrante delicto</i> . The competent authority that has arrested the Commissioner, shall, within 24 hours, inform the Milli Mejlis of the Republic of Azerbaijan (Parliament) and the Prosecutor-General of the Republic of Azerbaijan.
Persons covered	The Commissioner	The Commissioner
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Assembly	Yes, with the authorisation of the Assembly
Procedure for lifting immunity	-	The inviolability of the Commissioner may be terminated only on a decision of the Milli Mejlis of the Republic of Azerbaijan taken by 83 votes majority following a motion of the Prosecutor-General of the Republic of Azerbaijan.

Dimensions of immunity in the institution of the Ombudsman	BOSNIA - HERZEGOVINA	
	The Ombudsman of the Federation of Bosnia-Herzegovina Non-liability	Inviolability
Legal basis	Law on the Ombudsman of 22.01.2004, art. 16.1 and art. 16.4 http://host.uniroma3.it/progetti/cedir/cedir/Lex-doc/Bos_l-2004b.pdf	Law on the Ombudsman of 22.01.2004, art. 16.2 and art. 16.4
Scope of immunity	<u>Ombudsman</u> <u>Divided functional</u> i) No prosecution, no investigation, arrest, detention or trial for the opinions expressed or for the decisions taken in the exercise of powers associated with his or her duties (no waiver), and ii) all other acts in the discharge of his duties (with waiver)	<u>Extra functional immunity</u> He shall not be detained, arrested - except in cases of flagrante delicto relating to an offence punishable with a term of imprisonment greater than five years Decisions to prosecute, to detain or to refer an Ombudsman to a court charged with a criminal offence shall be taken only for offences punishable by a term of imprisonment greater than five years, and only after both the House of Representatives of Bosnia and Herzegovina and the House of Peoples of Bosnia and Herzegovina have so decided. Solely a court at the level of Bosnia and Herzegovina shall be competent to try him or her.
	<u>Staff</u> <u>Functional immunity</u> Persons holding any office or appointment under the institution shall not be prosecuted, subjected to investigation, arrested, detained or tried for any action, opinion or decision taken while performing their duties upon office or appointment	<u>Extra-functional immunity:</u> Whenever members of the staff are arrested, detained or tried for all those acts not connected to their official function, the prosecuting authorities shall duly and promptly inform the institution.
Acts covered by immunity	<u>Ombudsman</u> All opinions and decisions in the discharge of his duties (without waiver) All other acts in the discharge of his duties (with waiver)	<u>Ombudsman</u> All offences which may lead to the above-mentioned measures save in cases of <i>flagrante delicto</i> relating to an offence punishable with a term of imprisonment greater than five years.
	<u>Staff</u> All actions, opinions and decisions under the Defender's instructions (without waiver) The Ombudsman and his/her Staff	<u>Staff</u> Acts not connected to their official function. The Ombudsman and his/her Staff
Persons covered		

Dimensions of immunity in the institution of the Ombudsman	BOSNIA - HERZEGOVINA	
	The Ombudsman of the Federation of Bosnia-Herzegovina	
	Non-liability	Inviolability
Duration of immunity	<u>Ombudsman</u> Perpetual for the opinions and decisions For the duration of the mandate for all other acts	For the duration of the mandate (The Ombudsman and the Staff)
Can immunity be lifted? By whom?	<u>Staff</u> For the duration of the mandate <u>The Defender</u> Yes, with the authorisation of the Assembly for all other acts in the discharge of the Ombudsman's duties	Yes, with the authorisation of the Assembly
Procedure for lifting immunity	The consent of both the House of Representatives of Bosnia and Herzegovina and the House of Peoples of Bosnia and Herzegovina.	The consent of both the House of Representatives of Bosnia and Herzegovina and the House of Peoples of Bosnia and Herzegovina.
		The procedure for waiving the staff's immunity is not precise

Dimensions of immunity in the institution of the Ombudsman	BULGARIA	
	The Bulgarian Ombudsman	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 69) Law on the Ombudsman (State Gazette No. 48 of May 23, 2003, in force since January 1, 2004), art. 16.1	Constitution (Art. 70); Rules of Procedure of the National Assembly (Art. 105), Law on the Ombudsman (State Gazette No. 48 of May 23, 2003, in force since January 1, 2004), art. 16.2
Scope of immunity	<u>Functional</u> Art. 16.1 "The Ombudsman shall enjoy the same immunity as a Member of Parliament"	<u>Extra-functional immunity</u> - with respect to the initiation of any investigation, arrest, criminal proceedings; - except when arrested in the act of committing a serious crime.
Acts covered by immunity	Immunity for all opinions expressed and acts performed in the discharge of his duties	"All acts that may lead to arrest or criminal proceedings, - except serious crimes, with the Assembly's authorization; - except in the case of arrest when committing a serious crime". Report on the RPI
Persons covered	The Ombudsman	The Ombudsman
Duration of immunity Can immunity be lifted? By whom?	Perpetual -	For the duration of the mandate Yes, with the authorization of the National Assembly or, if it is sitting, its Speaker, to institute an investigation.
Procedure for lifting immunity	-	"Where the Ombudsman is arrested in the act of committing a crime, the Assembly is immediately notified. - The Public Prosecutor submits the proposal to lift immunity, with grounds, to the National Assembly, or to the Speaker if it is not sitting. - It is examined by the Commission for Parliamentary Ethics. - The decision is taken by the Assembly or, if it is not sitting, by the Speaker, whose decision it later confirms or overturns". Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	CZECH REPUBLIC	
	The Public Defender of Rights	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 27), Law on the Public Defender of Rights (8.12.1999) art. 7.1	Constitution (Art. 27), Law on the Public Defender of Rights (8.12.1999) art. 7.1
Scope of immunity	<u>Functional</u> He may be criminally prosecuted only with the approval of the Chamber of Deputies.	<u>Extra-Functional</u> He may be criminally prosecuted only with the approval of the Chamber of Deputies.
Acts covered by immunity	All acts for which he may be criminally prosecuted.	All acts for which he may be criminally prosecuted.
Persons covered	The Public Defender of Rights	The Public Defender of Rights
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the Chamber of Deputies	Yes, with the authorization of the Chamber of Deputies
Procedure for lifting immunity	“The proposal to lift immunity is submitted by the Parliamentary Committee on Immunities. - The Chamber takes the decision in accordance with Article 27 of the Constitution”. Report on the RPI	“The proposal to lift immunity is submitted by the Parliamentary Committee on Immunities. - The Chamber takes the decision in accordance with Article 27 of the Constitution”. Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	ESTONIA	
	The Chancellor of Justice	
	Non-liability	Inviolability
Legal basis	Chancellor of Justice Act Passed on 25 February 1999 (RT* I 1999, 29, 406), entered into force 1 June 1999, Chapter 2, par. 11.1	Chancellor of Justice Act Passed on 25 February 1999 (RT* I 1999, 29, 406), entered into force 1 June 1999, Chapter 2, par. 11.1
Scope of immunity	<u>Functional</u> He may be criminally prosecuted only with the approval of the Parliament	<u>Extra-functional</u> He may be criminally prosecuted only with the approval of the Parliament
Acts covered by immunity		All acts for which he may be criminally prosecuted.
Persons covered	The Chancellor of Justice	The Chancellor of Justice
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the Parliament	Yes, with the authorization of the Parliament
Procedure for lifting immunity	Criminal charges may be brought against the Legal Chancellor only on the proposal of the President of the Republic and with the consent of the majority of the membership of the Riigikogu (Parliament).	Criminal charges may be brought against the Legal Chancellor only on the proposal of the President of the Republic and with the consent of the majority of the membership of the Riigikogu (Parliament).

Dimensions of immunity in the institution of the Ombudsman	FINLAND	
	The Ombudsman of the Parliament/ Chancellor of Justice	
	Non-liability	Inviolability
Legal basis	Constitution Act of Finland Issued on 17 July 1919 (as amended) section 114, 115, and 117	-
Scope of immunity	<u>Functional immunity.</u> He may be (legally) prosecuted only with the approval of Parliament.	-
Acts covered by immunity	All acts for which he may be legally prosecuted in the performance of his duties.	-
Persons covered	The Ombudsman of the Parliament, the Deputy Ombudsman of the Parliament or the Deputy Ombudsman's substitute	-
Duration of immunity Can immunity be lifted? By whom?	For the duration of the mandate Yes, with the authorization of the Parliament	-
Procedure for lifting immunity	The decision to bring a charge is made by the Parliament, after having obtained an opinion from the Constitutional Law Committee concerning the unlawfulness of the actions of the Ombudsman. Before the Parliament decides to bring charges or not, it shall allow the Ombudsman an opportunity to give an explanation. When considering a matter of this kind the Committee shall have a quorum when all of its members are present. If a decision to waive immunity is taken, the matter is handled in a special tribunal, the High Court of Impeachment, in regard to which special constitutional provisions have been enacted.	

Dimensions of immunity in the institution of the Ombudsman	FRANCE	
	The Mediator	
	Non-liability	Inviolability
Legal basis	Law no. 73-6 of 3rd January 1973 establishing a Mediator of the French Republic (Supplemented by law no. 76-1211 of 24th December 1976 and by law no. 89-18 of 13th January 1989 and modified by law no. 92-125 of 6th February 1992), Section 3	-
Scope of immunity	<u>Functional – Absolute immunity</u> The Mediator of the French Republic shall be immune from prosecution, arrest, detention and judgement in respect of any opinions he may voice or any acts he may accomplish in the performance of his duties.	-
Acts covered by immunity	All opinions and acts in the discharge of his duties.	-
Persons covered	The Mediator	-
Duration of immunity	Perpetual	-
Can immunity be lifted? By whom?	-	-
Procedure for lifting immunity	-	-

Dimensions of immunity in the institution of the Ombudsman	FORMER YUGOSLAV REPUBLIC OF MACEDONIA	
	The Public Attorney (Ombudsman)	
	Non-liability	Inviolability
Legal basis	Law on the Public Attorney (Ombudsman) of 13 February 1997, art. 38	-
Scope of immunity	<u>Functional – Absolute immunity</u> The Ombudsman and his deputies cannot be called to account for opinions, actions, measures and activities in the discharge of their duties.	-
Acts covered by immunity	Any opinions, actions, measures and activities in the discharge of his duties.	-
Persons covered	The Ombudsman and his deputies	-
Duration of immunity	Perpetual	-
Can immunity be lifted? By whom?	-	-
Procedure for lifting immunity	-	-

Dimensions of immunity in the institution of the Ombudsman	GEORGIA	
	The Public Defender of Georgia Non-liability	Inviolability
Legal basis	Law on Public Defender of Georgia (16.05.1996) Art. 5. 5	Law on Public Defender of Georgia (16.05.1996) Art. 5. 2, 5.3
Scope of immunity	<u>Divided functional</u> i) in criminal proceedings for the opinions and views expressed within his term of reference (without waiver), and ii) all other acts within his term of reference (with waiver)	<u>Extended extra-functional immunity</u> with respect to criminal proceedings, arrest or imprisonment. His apartment, motorcar, work place as well as he himself cannot be searched without consent of the Parliament.
Acts covered by immunity	All opinions and views expressed within his term of reference	All offences which may lead to the above-mentioned measures, save in cases of flagrante delicto. The competent authority must immediately report the event to Parliament. If the Parliament does not give its consent the arrested or imprisoned Public Defender of Georgia shall be discharged without delay. The Parliament of Georgia shall make decision on this question not later than 14 days following the appeal of the Prosecutor General of Georgia.
	All other acts (with waiver)	
Persons covered	The Public Defender of Georgia	The Public Defender of Georgia
Duration of immunity	Perpetual (for views and opinions) For the duration of the mandate (for the acts)	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Parliament	Yes, with the authorisation of the Parliament
Procedure for lifting immunity	“The decision to lift immunity is taken by the Parliament of Georgia” Report on the RPI	“The decision to lift immunity is taken by the Parliament of Georgia” Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	GREECE	
	The Greek Ombudsman	
	Non-liability	Inviolability
Legal basis	Law No. 3094, 22 January 2003	-
Scope of immunity	The Ombudsman and other provisions, art. 1, par. 2 <u>Functional – almost Absolute</u>	-
Acts covered by immunity	The Ombudsman and the Deputy Ombudsmen are not held responsible, prosecuted or subjected to inquiry for any opinion expressed or act committed in the discharge of their duties. Prosecution is permissible only following an accusation for slander, libel or violation of confidentiality	-
Persons covered	All opinions and acts in the discharge of their duties save in cases of slander, libel or violation of confidentiality	-
Duration of immunity	The Ombudsman and the Deputy Ombudsmen	-
Can immunity be lifted? By whom?	Perpetual	-
Procedure for lifting immunity	-	-

Dimensions of immunity in the institution of the Ombudsman	HUNGARY	
	The Ombudsman for Civil Rights	
	Non-liability	Inviolability
Legal basis	Act LIX on the Ombudsman (Parliamentary Commissioner) for Civil Rights (1.6.1993) Section 11	Act LIX on the Ombudsman (Parliamentary Commissioner) for Civil Rights (1.6.1993) Sections 12.2, 12.3, 12.4, 12.5, 12.6, 13.1, 13.2, 14
Scope of immunity	<u>Divided Functional i</u>) “for any fact or opinion communicated by him in the course of the exercise of his mandate”. (without waiver), and ii) all other acts in the discharge of his duties (with waiver)	<u>Extra – functional immunity</u> - with respect to any "arrest", "criminal proceedings or contraventions" and coercive measures of criminal proceedings, - Without the Assembly's consent to lift immunity. - In case of <i>flagrante delicto</i> , the deputy may be arrested but application for his immunity to be lifted must be made as soon as possible.
Acts covered by immunity	He enjoys immunity “in court or before any other authority for any fact or opinion communicated by him in the course of the exercise of his mandate”. Proceedings may, however, be initiated for slander and libel. He is also responsible under civil law.	All offences which may lead to the above-mentioned measures, save in cases of <i>flagrante delicto</i> . “The Ombudsman may not waive his immunity – with the exception of proceedings for contravention” Section 13 (1)
Persons covered	For all other acts a waiver procedure should be followed The Ombudsman for Civil Rights	The Ombudsman for Civil Rights
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Parliament for all other acts	Yes, with the authorisation of the Parliament
Procedure for lifting immunity	“The motion for the suspension of immunity is submitted to the Speaker of the Assembly by the Chief Public Prosecutor, but after the submission or the presentation of the private accusation, it is the court that is competent to propose lifting immunity. In a case of contravention the suspension of immunity is submitted to the Speaker of the Assembly by the Chief Public Prosecutor on the basis of the request of the authority of contraventions. In a case of <i>flagrante delicto</i> , the motion must be submitted without delay. - The request is examined by the Parliamentary Committee on Immunities and conflict of interest matters and a proposal to decision is submitted to Parliament within thirty days. - The decision is taken by the Assembly, without debate, and requires a two-thirds majority of deputies present”. Report on the RPI	“The motion for the suspension of immunity is submitted to the Speaker of the Assembly by the Chief Public Prosecutor, but after the submission or the presentation of the private accusation, it is the court that is competent to propose lifting immunity. In a case of contravention the suspension of immunity is submitted to the Speaker of the Assembly by the Chief Public Prosecutor on the basis of the request of the authority of contraventions. In a case of <i>flagrante delicto</i> , the motion must be submitted without delay. - The request is examined by the Parliamentary Committee on Immunities and conflict of interest matters and a proposal to decision is submitted to Parliament within thirty days. - The decision is taken by the Assembly, without debate, and requires a two-thirds majority of deputies present”. Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	MOLDOVA	
	Parliamentary Advocates	
	Non-liability	Inviolability
Legal basis	Law 1349-XIII of 17th October 1997 on Parliamentary Advocates, art. 12.1, 12.2, 12.3	Law 1349-XIII of 17th October 1997 on Parliamentary Advocates, art. 12.1, 12.2, 12.3
Scope of immunity	<u>Functional</u> All acts in the discharge of their duties	<u>Extended Extra-functional</u> (They enjoy) immunity with respect to criminal or administrative proceedings, arrest, detention, search without the prior consent of the Parliament. - Except in the case of <i>flagrante delicto</i> . - Inviolability extends to their residence, offices, transportation and communication means, correspondence, documents and personal property.
Acts covered by immunity	All acts in the discharge of their duties	All acts liable to search, arrest, detention, criminal and administrative proceedings, except: - cases of <i>flagrante delicto</i> .
Persons covered	The Parliamentary Advocate	The Parliamentary Advocate
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the Parliament	Yes, with the authorization of the Parliament
Procedure for lifting immunity	“In the case of <i>flagrante delicto</i> , a member may be detained in his home for 24 hours on the authority of the Public Prosecutor. The Speaker must be informed immediately; he informs Parliament which may then suspend detention. As a general rule, the procedure for obtaining lifting of immunity is as follows: - The proposal is made by the Public Prosecutor. - It is examined by the Permanent Committee on Legal Affairs, Appointments and Immunities which submits a report. - Parliament votes by secret ballot on the Committee's report. - The Public Prosecutor, and he alone, may prosecute a Member of Parliament”. Report on the RPI	“In the case of <i>flagrante delicto</i> , a member may be detained in his home for 24 hours on the authority of the Public Prosecutor. The Speaker must be informed immediately; he informs Parliament which may then suspend detention. As a general rule, the procedure for obtaining lifting of immunity is as follows: - The proposal is made by the Public Prosecutor. - It is examined by the Permanent Committee on Legal Affairs, Appointments and Immunities which submits a report. - Parliament votes by secret ballot on the Committee's report. - The Public Prosecutor, and he alone, may prosecute a Member of Parliament”. Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	MONTENEGRO	
	Law on the Protector of Human Rights and Freedoms	
	Non-liability	Inviolability
Legal basis	Law of July 8, 2003 on the Protector of Human Rights and Freedom* art. 14.2	Law of July 8, 2003 on the Protector of Human Rights and Freedom* art. 14.1
Scope of immunity	<u>Divided functional</u> i) “for opinion expressed or for recommendation given in the exercise of his or her duties” (Without waiver), and ii) all other acts in the discharge of his duties (with waiver)	The Protector and the Deputy shall enjoy the same immunity as accorded to the Representatives. <u>Extra-functional</u> . According to article 86 of the Constitution concerning the Representatives no detention and no penal proceedings may be initiated without the consent of the Parliament, except in cases of <i>flagrante delicto</i> for which there is a prescribed sentence of over five years of imprisonment.
Acts covered by immunity	All opinions and recommendations expressed in the exercise of their mandate. All other acts in the discharge of their duties (with waiver)	All acts liable to detention and criminal proceedings, except: - cases of <i>flagrante delicto</i> for which there is a prescribed sentence of over five years of imprisonment.
Persons covered	The Protector and the Deputy	The Protector and the Deputy
Duration of immunity	Perpetual for opinions and recommendations For the duration of their mandate for all other acts	For the duration of their mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the Parliament	Yes, with the authorization of the Parliament
Procedure for lifting immunity	-	

* According to the Joint Opinion No. 540 / 2009 adopted by the Venice Commission at its 80th Plenary Session (Venice, 9-10 October 2009), following the submission of a letter dated 23 March 2009, by the Minister for the Protection of Human and Minority Rights of Montenegro, Mr Fuad Nimani, who requested from the Venice Commission an opinion on amendments to the Law on the Protector of Human Rights and Freedoms, the proposed amendment of article 26 of the Law reads as follows: “*The Protector and his/her Deputies, but also his/her staff should have immunity from legal process in respect of words spoken or written and acts performed by them in their official capacity. Such immunity shall continue to be accorded even after the end of the Protector’s mandate or after the members of staff cease their employment with the Protector’s institution. This immunity should also include baggage, correspondence and means of communication belonging to the Protector*”. Available at: [http://www.venice.coe.int/docs/2009/CDL-AD\(2009\)043-e.pdf](http://www.venice.coe.int/docs/2009/CDL-AD(2009)043-e.pdf), date of access: 06.01.2010.

Dimensions of immunity in the institution of the Ombudsman	POLAND	
	The Commissioner for Civil Rights Protection	
	Non-liability	Inviolability
Legal basis	-	Constitution signed by the President of the Republic of Poland on July 16, 1997, art. 210 and 211 Act of 15 July 1987 on Commissioner for Civil Rights Protection (art. 6.2)
Scope of immunity	<u>Functional</u> All acts in the discharge of their duties	<u>Extra-functional</u> with respect to criminal proceedings, arrest or detention without the prior consent of the Parliament - Except in the case of <i>flagrante delicto</i> and in case his detention is indispensable to secure correct proceedings. - The detention shall be immediately notified to the Speaker of the Sejm, who may order immediate release of the detained
Acts covered by immunity	All acts in the discharge of their duties	All acts liable to arrest, detention and criminal proceedings, except: - cases of <i>flagrante delicto</i> or in case his detention is indispensable to secure correct proceedings
Persons covered	The Commissioner for Civil Rights Protection	The Commissioner for Civil Rights Protection
Duration of immunity	For the duration of his mandate	For the duration of his mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the Parliament	Yes, with the authorization of the Parliament
Procedure for lifting immunity	Procedure (Art. 10 (2) to (5) of the Act on the Exercise of the Mandate of a Deputy or Senator, Art. 73 to 74 of the Standing Orders of the Sejm of the Republic of Poland). In this case, MPs must be heard. They do not have means of appeal.	Procedure (Art. 10 (2) to (5) of the Act on the Exercise of the Mandate of a Deputy or Senator, Art. 73 to 74 of the Standing Orders of the Sejm of the Republic of Poland). In this case, MPs must be heard. They do not have means of appeal.

Dimensions of immunity in the institution of the Ombudsman	ROMANIA	
	The Advocate of the People	
	Non-liability	Inviolability
Legal basis	Law No. 35/1997 on the organization and functioning of the People's Advocate institution, art. 30	Law No. 35/1997 on the organization and functioning of the People's Advocate institution, art. 31.1, 31.2, 31.3
Scope of immunity	<p><u>Qualified Immunity-The principle of good faith</u></p> <p>The Advocate of the People and his/her deputies cannot be prosecuted for any opinions or acts legally performed while exercising their duties</p>	<p><u>Extra-functional immunity</u></p> <p>against search, arrest , detention, arraignment without the approval of the presidents of the Chambers of Parliament (for the Advocate of the People)</p> <p><u>Extra-functional immunity</u></p> <p>against search, arrest , detention, arraignment without prior information of the Advocate of the People (for the Advocate's deputies)</p>
Acts covered by immunity	Any opinions or acts legally performed in the discharge of their duties.	All offences which may lead to the above-mentioned measures
Persons covered	The Advocate of the People and his/her deputies	The Advocate of the People and his/her deputies
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	-	<p>Yes, with the authorisation of the presidents of the Chambers of Parliament (for the Advocate of the People)</p> <p>- with the authorisation of the Advocate (for the Advocate's deputies)</p>
Procedure for lifting immunity	-	No precise provisions for both procedures

Dimensions of immunity in the institution of the Ombudsman	SWEDEN	
	The Parliamentary Ombudsman Non-liability	Inviolability
Legal basis	The Rikstag Act, Chapter 9, art. 8.2	-
Scope of immunity	<u>Functional immunity.</u> He may be (legally) prosecuted only with the approval of Parliament.	-
Acts covered by immunity	All acts for which he may be legally prosecuted in the performance of his duties.	-
Persons covered	The Parliamentary Ombudsmen	-
Duration of immunity	For the duration of their mandate	-
Can immunity be lifted? By whom?	Yes, with the authorization of the Parliament	
Procedure for lifting immunity	The decision to bring a charge is made by the Parliament, after having obtained an opinion from the Constitutional Law Committee.	

Dimensions of immunity in the institution of the Ombudsman	RUSSIAN FEDERATION	
	Commissioner for Human Rights in the Russian Federation	
	Non-liability	Inviolability
Legal basis	Federal Constitutional Law on the Commissioner for Human Rights in the Russian Federation (1997), Art. 12.1, 12.2	Federal Constitutional Law on the Commissioner for Human Rights in the Russian Federation (1997), Art. 12.1, 12.2
Scope of immunity	<u>Functional</u> All acts in the discharge of his duties.	<u>Extra-functional</u> immunity against criminal or administrative charges, court procedures, personal and other searches, detention and arrest, search, personal interrogation (except in cases provided for by law to ensure the safety of third parties) - without the consent of the State Duma, except in cases of <i>flagrante delicto</i> . In the case of the detention of the commissioner at the scene of a crime, the official who conducted the detention shall immediately notify this to the State Duma, which must take a decision on giving consent on the further use of the procedural measure. If within 24 hours the consent of the State Duma is not received, the Commissioner must be released immediately. The deputy's inviolability applies also to his residential and work premises, baggage, personal and work means of transport, correspondence, communication, and documents.
Acts covered by immunity	All acts in the discharge of his duties.	All acts liable to the abovementioned measures except, - offences committed in <i>flagrante delicto</i> and after the consent of the State Duma
Persons covered	The Commissioner for Human Rights	The Commissioner for Human Rights
Duration of immunity	For the duration of his mandate	For the duration of his mandate
Can immunity be lifted? By whom?	Yes, with the authorization of the State Duma	Yes, with the authorization of the State Duma
Procedure for lifting immunity	“The proposal is submitted to the Chamber by the Public Prosecutor of the Russian Federation. - The request is examined by a special committee in the State Duma which produces an opinion, with grounds, within five days. - The decision is taken by the State Duma a majority of the total number of deputies is required in the State Duma, within seven days).” Report on the RPI	“The proposal is submitted to the Chamber by the Public Prosecutor of the Russian Federation. - The request is examined by a special committee in the State Duma which produces an opinion, with grounds, within five days. - The decision is taken by the State Duma a majority of the total number of deputies is required in the State Duma, within seven days).” Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	SPAIN	
	The Defender of the People	
	Non-liability	Inviolability
Legal basis	Organic Act concerning the Defender of the People (Defensor del Pueblo) of April 6, 1981, art. 6.2, 6.4	Organic Act concerning the Defender of the People (Defensor del Pueblo) of April 6, 1981, art. 6.2, 6.3
Scope of immunity	<u>Functional – Absolute immunity</u> The Defender of the People and his/her Assistants cannot be arrested, placed under enquiry, fined, prosecuted or judged on account of the opinions he expresses or the acts he carries out within the scope of his duties.	<u>Extra-functional immunity</u> against arrest, detention, except in cases of <i>flagrante delicto</i> . The decision regarding his accusation, prison, prosecution and trial falls exclusively to the Penal Division of the High Court.
Acts covered by immunity	Any opinions or acts performed in the discharge of their duties.	All offences which may lead to the above-mentioned measures
Persons covered	The Defender of the People and his/her Assistants	The Defender of the People and his/her Assistants
Duration of immunity	Perpetual	For the duration of the mandate
Can immunity be lifted? By whom?	-	Yes, the decision falls exclusively to the Penal Division of the High Court.
Procedure for lifting immunity	-	-

Dimensions of immunity in the institution of the Ombudsman	PORTUGAL The Ombudsman	
	Non-liability	Inviolability
Legal basis	Statute of the Ombudsman, Law nr. 9/91, of 9 April 1991 (modified by Law nr. 30/96, of 14 August 1996), art. 8.1	Statute of the Ombudsman, Law nr. 9/91, of 9 April 1991 (modified by Law nr. 30/96, of 14 August 1996), art. 8.2
Scope of immunity	<u>Functional – Absolute immunity</u> The Ombudsman will not be held responsible on civil or criminal grounds for his recommendations, remarks, opinions and acts in the exercise of his functions.	<u>Extra-functional immunity</u> against arrest, or imprisonment without the consent of the Parliament - except in cases of <i>flagrante delicto</i> for the commission of a crime that carries a prison sentence of over three years
Acts covered by immunity	Any recommendations, remarks, opinions and acts performed in the discharge of his duties.	All offences which may lead to the above-mentioned measures
Persons covered	The Ombudsman	The Ombudsman
Duration of immunity	Perpetual	For the duration of the mandate
Can immunity be lifted? By whom?	-	Yes, with the authorization of the Parliament
Procedure for lifting immunity	-	“The competent authorities submit the proposal to the Speaker of the Assembly. The judge then requests the suspension of the deputy's mandate. - The request is examined by the Committee on the Rules of Procedure and Parliamentary Mandates which hears the deputy and then gives an opinion. - The decision to consent to the imprisonment of a deputy or to suspend proceedings is taken by secret ballot. An absolute majority of deputies present is required”. Report on the RPI

Dimensions of immunity in the institution of the Ombudsman	SERBIA	
	The Protector of Citizens	
	Non-liability	Inviolability
Legal basis	Law* on the Protector of Citizens (Official Gazette of the Republic of Serbia” No. 79/2005, 16 September 2005) art., 10**	-
Scope of immunity	<u>Functional immunity</u> The Protector of Citizens and his/her Deputies shall not be held accountable for opinion, criticism or recommendation they made while performing their function.	-
Acts covered by immunity	Any opinion, criticism, recommendation in the discharge of their duties.	-
Persons covered	The Protector and his Deputies	-
Duration of immunity	For the duration of the mandate	-
Can immunity be lifted? By whom?	-	-
Procedure for lifting immunity	-	-

* available at: <http://www.unhcr.org/refworld/country,,NATLEGBOD,,SRB,,43e7573c4,0.html>, date of access: 06.01.2010.

** In the Joint Opinion No 318/2004 of the Venice Commission (adopted by the 61st Session, 3-4 December 2004) on the Draft Law of the Ombudsman of Serbia, the proposed provision for the immunity of the Ombudsman read as follows: “*The Ombudsperson his or her deputies and the staff of the Secretariat should be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limit of their authority*” (functional immunity) available at: [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL-AD(2004)041-e.pdf), date of access: 06.01.2010.

Dimensions of immunity in the institution of the Ombudsman	SLOVENIA	
	Human Rights Ombudsman	
	Non-liability	Inviolability
Legal basis	Human Rights Ombudsman Act of December 20, 1993, art. 20, par. 1	-
Scope of immunity	<u>Divided functional</u> i) The Ombudsman shall not be held responsible for the opinion or recommendation given while performing his function (without waiver), and ii) he shall not be held in custody in the criminal proceedings instituted against him for having performed his function, without the prior consent of the Parliament (with waiver)	-
Acts covered by immunity	Any opinion and recommendation in the discharge of his duties.	-
Persons covered	All other acts in the discharge of his duties The Ombudsman	
Duration of immunity	For the duration of the mandate	
Can immunity be lifted? By whom?	- Yes, with the authorization of the Parliament for all other acts	
Procedure for lifting immunity	Not specified	

Dimensions of immunity in the institution of the Ombudsman	UKRAINE	
	The Ukrainian Parliament Commissioner for Human Rights Non-liability	Inviolability
Legal basis	Law No. 35/1997 on the organization and functioning of the People's Advocate institution, art. 31.1, 31.2, 31.3	Law No. 35/1997 on the organization and functioning of the People's Advocate institution, art. 31.1, 31.2, 31.3
Scope of immunity	<u>Functional</u> for all the acts in the discharge of his duties	<u>Extra-functional immunity</u> : - from criminal responsibility, administrative punishment imposed in accordance with judicial procedure, detention, arrest, search, as well as personal examination. - without the approval of Parliament
Acts covered by immunity	All the acts in the discharge of his duties	All offences which may lead to the above-mentioned measures
Persons covered	The Ukrainian Parliament Commissioner for Human Rights	The Ukrainian Parliament Commissioner for Human Rights
Duration of immunity	For the duration of the mandate	For the duration of the mandate
Can immunity be lifted? By whom?	Yes, with the authorisation of the Assembly	Yes, with the authorisation of the Assembly
Procedure for lifting immunity	<p>“The proposal is submitted to Parliament by the Public Prosecutor or the President of the Supreme Court. Parliament must reply within a month.</p> <p>- The Committee of Parliamentary Ethics draws up a report, after hearing the deputy in the presence of the Public Prosecutor or the President of the Supreme Court.</p> <p>- The decision is taken and grounds given for it by Parliament by a two-thirds majority of members of the Chamber”. Report on the RPI</p>	<p>“The proposal is submitted to Parliament by the Public Prosecutor or the President of the Supreme Court. Parliament must reply within a month.</p> <p>- The Committee of Parliamentary Ethics draws up a report, after hearing the deputy in the presence of the Public Prosecutor or the President of the Supreme Court.</p> <p>- The decision is taken and grounds given for it by Parliament by a two-thirds majority of members of the Chamber”. Report on the RPI</p>

APPENDIX 2

A Typology of immunities in the institution of the Ombudsman based on the tables summarizing legislation on immunity regimes in the institution of the Ombudsman in Council of Europe Member States

MODEL 1: The Broad Model based on the French System of Parliamentary Immunity	
Non-liability (variations)	Inviolability (variations)
1. Functional in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)	1. Extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: A1+B9 Council of Europe Member States: Albania, Czech Republic, Estonia, Poland, Ukraine	
2. Functional in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)	2. Extended extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations. Inviolability extends to search of residential and work premises, baggage, personal and work means of transport, correspondence, means of communication, documents. <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: A1+D25 Council of Europe Member States: Azerbaijan, Moldova, Russian Federation	
3. Absolute Functional : in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties. Slander or offence are exempted from the scope of immunity in the case of Armenia <i>Duration:</i> Perpetual <i>Waiving procedure:</i> No waiving procedure is provided	3. Extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: A7+B9 Council of Europe Member States: Bulgaria, Spain, Portugal	
4. Divided Functional i) in respect of legal/court proceedings over opinions, recommendations, views, decisions in the discharge of duties <i>Duration:</i> Perpetual <i>Waiving procedure:</i> No waiving procedure is provided ii) in respect of legal/court proceedings over acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)	4. Extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: C17+C23+B9 Council of Europe Member States: Montenegro	

<p>5. <u>Divided Functional</u> i) in respect of legal/court proceedings over opinions, recommendations, views in the discharge of duties. Slander and libel are exempted from the scope of immunity. <i>Duration:</i> During mandate <i>Waiving procedure:</i> No waiving procedure is provided</p> <p>ii) in respect of legal/court proceedings over acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)</p>	<p>5. <u>Extra-functional</u>: protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i>.</p>
<p>Cells: C17+C19+B9 Council of Europe Member States: Hungary</p>	
<p>6. <u>Divided Functional</u> i) in respect of legal/court proceedings over opinions, recommendations, views, decisions in the discharge of duties <i>Duration:</i> Perpetual <i>Waiving procedure:</i> No waiving procedure is provided</p> <p>ii) in respect of legal/court proceedings over acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)</p>	<p>6. <u>Extended extra-functional</u>: protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations. Inviolability extends to search of residential and work premises, baggage, personal and work means of transport, correspondence, means of communication, documents. <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i>.</p>
<p>Cells: C17+C23+D25 Council of Europe Member States: Georgia</p>	
<p>MODEL 2: The Narrow Model Non-liability</p>	
<p>1. <u>Absolute Functional</u>: in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties. Slander, libel, and breach of confidentiality are exempted from the scope of immunity in the case of Greece. <i>Duration:</i> Perpetual <i>Waiving procedure:</i> No waiving procedure is provided</p>	
<p>Cells: A7 Council of Europe Member States: France, Former Yugoslav Republic of Macedonia, Greece</p>	
<p>2. <u>Functional</u>: in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)</p>	
<p>Cells: A1 Countries: Finland, Sweden</p>	
<p>3. <u>Divided Functional</u> i) in respect of legal/court proceedings over opinions, recommendations, views in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> No waiving procedure is provided</p> <p>ii) in respect of legal/court proceedings over acts in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> Immunity is waived by the competent authority/body (Parliament)</p>	
<p>Cells: C17+C19 Council of Europe Member States: Slovenia</p>	
<p>4. <u>Functional</u>: in respect of legal/court proceedings over opinions, recommendations, views in the discharge of duties <i>Duration:</i> During mandate <i>Waiving procedure:</i> No waiving procedure is provided</p>	
<p>Cells: A3 Council of Europe Member States: Serbia</p>	

MODEL 3: The Hybrid Immunity Model Combination of parliamentary immunity and immunity of international organisations	
OMBUDSPERSONS	
Non-liability	Inviolability
1. Absolute Functional : in respect of legal/court proceedings over opinions, recommendations, views, decisions, acts in the discharge of duties. Slander or offence are exempted from the scope of immunity in the case of Armenia <i>Duration</i> : Perpetual <i>Waiving procedure</i> : No waiving procedure is provided	1. Extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration</i> : During mandate <i>Waiving procedure</i> : Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: A7+B9 Council of Europe Member States: Armenia	
STAFF	
Non-liability	
1. Functional : in respect of legal/court proceedings over all actions, opinions, and decisions <i>Duration</i> : During Mandate <i>Waiving procedure</i> : Immunity is waived by the competent authority/body (Ombudsperson). The procedure is not precise.	
Cells: A4 Council of Europe Member States: Armenia	
OMBUDSPERSONS	
Non-liability	Inviolability
2. Divided Functional i) in respect of legal/court proceedings over opinions, recommendations, views, decisions in the discharge of duties <i>Duration</i> : Perpetual <i>Waiving procedure</i> : No waiving procedure is provided ii) in respect of legal/court proceedings over acts in the discharge of duties <i>Duration</i> : During mandate <i>Waiving procedure</i> : Immunity is waived by the competent authority/body (Parliament)	2. Extra-functional : protection against prosecution for all other acts not related to the function, that is, legal/court proceedings, including arrest, detention, personal search, preliminary enquiries, investigations <i>Duration</i> : During mandate <i>Waiving procedure</i> : Immunity is waived by the competent authority/body (Parliament), except in cases of <i>flagrante delicto</i> .
Cells: C17+C23+B9 Council of Europe Member States: Bosnia-Herzegovina	
STAFF	
Non-liability	Inviolability
2. Functional Persons holding any office or appointment under the institution shall not be prosecuted, subjected to investigation, arrested, detained or tried for any action, opinion or decision taken while performing their duties upon office or appointment <i>Duration</i> : During mandate <i>Waiving procedure</i> : No waiving procedure is provided	2. Extra-functional : Acts not connected to the staff's official function <i>Duration</i> : During mandate <i>Waiving procedure</i> : Immunity is waived by the competent authority/body (Ombudsperson). The procedure is not precise.
Cells: A2+B12 Council of Europe Member States: Bosnia-Herzegovina	
MODEL 4: The Qualified Immunity Model based on the principle of good faith	
Qualified immunity*: Courts decide upon the matter based on the principle of good faith ¹⁰⁸⁷ **No legal proceedings may be brought against the Commissioner in relation to any act done by him or any opinion expressed by him or report submitted by him in the exercise of his functions, provided that he has exercised his functions and powers under this Law in good faith and within their limits" (The Commissioner for Administration Law, 1991 (L.3/1991), as amended)	Qualified immunity for official acts combined with inviolability
Council of Europe Member States: Cyprus	Council of Europe Member States: Romania

¹⁰⁸⁷ In the Ombudsman Act of 1976 for the Commonwealth Ombudsman of Australia, Part IV-Miscellaneous, 33, entitled "Ombudsman not to be sued", reads as follows: "Subject to section 35, neither the Ombudsman nor a person acting under his or her direction or authority is liable to an action, suit or proceeding for or in relation to an act done or omitted to be done in good faith in exercise or purported exercise of any power or authority conferred by this Act or Division 7 of Part V of the Australian Federal Police Act 1979".

Curriculum Vitae

Personal Data

Name: Katramadou
Surname: Eleni
Father's name: Dimitrios
Year and place of birth: 1969, Athens

Studies

- 2009-2012** Doctoral Studies at the Department of Political Science and the Center for Comparative and International Studies (CIS) of the ETH and the University of Zurich
- 2002-2003** Master in Science (M.Sc.),
Postgraduate Programme "State and Public Policy"
Department of Political Science and Public Administration, Faculty of Law, Economics and Political Science, University of Athens
- 1987-1992** Degree in History and Archaeology (majored in History), Department of History and Archaeology, Faculty of Philosophy, University of Athens

Training Seminars

- 1998** International Summer Seminar of Bulgarian Language & Culture for Foreign Scholars and Students, organized by the University of Sofia "St Kliment Ohridski"
- 1993-1994** Participation at the Laboratory of Palaeography and Publication of Sources of the Scientific Society of the Relations of New Hellenism with the West (transcription of notarial deeds)
- 1990-1992** Three year cycle courses on Greek Palaeography organized by the Cultural Foundation of the National Bank of Greece
- 1990** Three month cycle courses on Latin Palaeography organized by the National Hellenic Research Foundation

Professional Experience

- 2008-** Permanent civil servant at the Supreme Council for the Selection of Personnel, ASEP
- 2003-2008** Permanent civil servant at the Athens School of Fine Arts
- 1992-2003** Permanent civil servant at the Ionian University

Research Experience

- 1991-1994** Research assistant at the scientific programme "Reconstruction of the Library of Lord Guilford" financed by the Research Committee of the Ionian University
- July 1990** Traineeship at the General State Archives

Conferences

- 2003** Conference “Public Sector Information: Perspectives of Management and Exploitation”. Title of the announcement: “Theoretical Approaches and Public Policies for the Re-use of Public Sector Information: The paradigm of the U.S.A and Europe”. The conference was co-organized by the Ionian University, the Ministry of the Interior, Public Administration and Decentralisation and the European Network for Public Sector Information (EPSI-net) Corfu, Greece, December 10, 2003.

Publications

“Directive 2003/98/EC on the re-use of Public Sector Documents. The consultation procedure and its results for the adoption of the final proposal of the European Commission”, *Studies on Public Policy*, University of Athens, Department of Political Science and Public Administration, Athens 2006, pp. 109-134.

“The «syndrome» of the public services: the phenomenon of moral harassment”, *Public Sector*, Monthly magazine for the public sector, n. 216, pp. 22-24, March 2005.

“Quality in Higher Education: The role and importance of administrative organization” *Public Sector*, Monthly magazine for the public sector, n. 212, pp. 32-35, November 2004.

Foreign Languages

English, French, Italian, Bulgarian